

Professions and Public Health Subcommittee

Tuesday, March 16, 2021
9:30 AM – 11:30 AM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Will Robinson
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Professions & Public Health Subcommittee

Start Date and Time:	Tuesday, March 16, 2021 09:30 am
End Date and Time:	Tuesday, March 16, 2021 11:30 am
Location:	Webster Hall (212 Knott)
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 239 Regulation of Smoking by Counties and Municipalities by Altman
HB 541 Veterans' Preference in Employment by Buchanan, DiCeglie
HB 543 Occupational Therapy by Koster
HB 697 Injured Police Canines by Killebrew
HB 1097 Health Care Licensure Requirements by Learned
HB 6095 Scheduling of Drug Products Containing Cannabidiol by Fischer

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for HB 1063 -- Administration of Vaccines
PCS for HB 1565 -- Department of Health

This meeting will be live-streamed on https://thefloridachannel.org/. Persons who wish to attend must register at www.myfloridahouse.gov, and pick up a pass at the Legislative Welcome Center on the 4th Floor of the Capitol beginning one hour before the start of the meeting. Audience seating will be socially distanced and will be available on a first-come, first-served basis. Registration closes three hours before the meeting starts.

NOTICE FINALIZED on 03/12/2021 4:10PM by Dewees.Cheryl

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 239 Regulation of Smoking by Counties and Municipalities
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee		Morris	McElroy
2) Environment, Agriculture & Flooding Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Florida Clean Indoor Air Act (FCIAA), implements Article X, Section 20 of the Florida Constitution. Article X, Section 20 of the Florida Constitution prohibits a person from smoking tobacco or using a vapor-generating electronic device in an enclosed indoor workplace, with certain exceptions.

The state preempts the regulation of smoking and does not allow counties or municipalities to regulate smoking. HB 239 amends the FCIAA to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park they own.

The bill changes the title of the “Florida Clean Indoor Air Act” to the “Florida Clean Air Act” to account for the broader application of the act proposed in the bill.

The bill has no fiscal impact on state governments. The bill may have an indeterminate, negative fiscal impact on local governments.

The bill provides and effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Smoking Regulation in Florida

While the Food and Drug Administration (FDA) regulates the manufacture, distribution, and marketing of tobacco and vaping products, it does not regulate smoking or vaping in public places – leaving that to the states.

In 1985, the Florida Legislature enacted the Florida Clean Indoor Air Act (FCIAA)[1] to protect the public health, comfort, and environment by creating areas in public places and at public meetings that were reasonably free from tobacco smoke. The FCIAA originally prohibited smoking in certain indoor public places (*e.g.* government buildings, elevators, public transportation, hospitals, day care centers) or common areas of an indoor public place (*e.g.* lobby, hallway, stairwell, restrooms), but did permit designated smoking areas of specified indoor public places such as places of employment, retail stores, indoor arenas, and restaurants.

Under the FCIAA, smoking means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted product.[2] Currently, the state preempts the regulation of smoking and does not allow counties or municipalities to regulate smoking, except school districts may further restrict smoking on school district property.[3] Local governments may impose more restrictive regulation on the use of vapor-generated electronic devices.[4]

Article X, Section 20 of the Florida Constitution

In the November 2002 General Election, Floridians voted to create Article X, Section 20 of the Florida Constitution, titled "Workplaces without tobacco smoke," which further restricted smoking indoors.[5] The purpose of this citizens' initiative was to protect people from the health hazards of secondhand tobacco smoke by prohibiting smoking in enclosed indoor workplaces, which are defined as:

> Any place where one or more persons engage in work,[6] and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings; or open or closed windows, jalousies, doors, or the like.[7]

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[1] Ch. 386, Part II, F.S.; ch. 85-257, Laws of Fla.
[2] S. 386.203(11), F.S.
[3] S. 386.209, F.S.
[4] Id.; "Vapor-generating electronic devices" means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.
[5] Text available at: https://dos.elections.myflorida.com/initiatives/fulltext/pdf/34548-1.pdf (last visited March 14, 2021). The constitutional provision does not preclude the Legislature from enacting more restrictive regulation of tobacco smoking.
[6] "Work" is defined as "any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not." Fla. Const., art. X, s. 20. "Work" includes, without limitation, any such service performed by an employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant, volunteer, and the like. The term does not include noncommercial activities performed by members of a membership association. S. 386.203(12), F.S.
[7] The smoking ban applies to all enclosed indoor workplaces regardless of whether work is occurring at any given time, Fla. Const., art. X, s. 20.

The provision also provided various other definitions and exceptions to the smoking ban, and required the Legislature to implement the section in law by the following legislative session. Accordingly, in 2003, the Legislature amended the FCIAA to conform existing law and implement the constitutional provision in a manner consistent with its broad purpose and stated terms.[8]

In the November 2018, General Election, Floridians passed Amendment No. 9, which amended Article X, Section 20 of the Florida Constitution, banning the use of vapor-generating electronic devices, or vaping, in enclosed indoor workplaces, consistent with the prohibition on tobacco smoking.[9]

The FCIAA prohibits smoking and vaping in an enclosed indoor workplace, unless it is a:[10]

- Private residence that is not being used commercially to provide child care, adult care, or health care, or any combination thereof;
- Retail tobacco shop;
- Designated smoking guest room in a public lodging establishment;
- Stand-alone bar;[11]
- Smoking cessation program or medical or scientific research; or
- Customs smoking room in an airport.

However, an owner, lessee, or a person otherwise in control of an enclosed indoor workplace may further prohibit or limit smoking or vaping therein.[12]

Additionally, no one under the age of 18 years old may smoke tobacco or vape in, on, or within 1,000 feet of a public or private grade school between 6 a.m. and midnight.[13] Violators of this provision are subject to a citation from a law enforcement officer.[14]

Persons in charge of enclosed indoor workplaces are required to develop and implement smoking and vaping prohibition policies in line with the FCIAA requirements.[15] Persons in charge of a smoking or vaping cessation program, medical or scientific research, or an airport terminal that includes a customs smoking room must all post signs clearly stating that smoking is only permitted in the designated areas.[16] Additionally, public transportation carriers in certain locations are required to make regular announcements regarding the smoking and vaping prohibition.[17]

The Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) are each responsible for the enforcement of the FCIAA as it relates to their respective areas of regulatory authority.[18] If an enclosed indoor work place violates the FCIAA and does not correct the violation within 30 days, DOH or DBPR may impose fines against the owner and pursue compliance in circuit court, if necessary.[19] Additionally, any person who violates the FCIAA by smoking or vaping in

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[8] Ch. 2003-398, Laws of Fla.
[9] Text available at: p. 26-30 https://dos.myflorida.com/media/699824/constitutional-amendments-2018-general-election-english.pdf (last visited March 14, 2021). Note: Amendment No. 9 also amended article II, section 7 of the Florida Constitution to ban offshore oil and gas drilling.
[10] Ss. 386.204 and 386.2045, F.S. Additionally, s. 386.203(5)(c), F.S., by definition of an "enclosed indoor workplace," excludes any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work.
[11] A stand-alone bar is a licensed premises that predominantly or totally serves alcoholic beverages and in which serving food is merely incidental to the sale of alcohol. Also, it must not share a common entryway or indoor area with a business that predominantly serves food during the hours the stand-alone bar is operating its business, s. 386.203(11), F.S. *See also* s. 561.695, F.S.
[12] Fla. Const., art X, sec. 20(b).
[13] S. 386.212(1), F.S.
[14] S. 386.212(2), F.S.
[15] S. 386.206(1), F.S.
[16] S. 386.206(2)-(3), F.S.
[17] S. 386.211, F.S.
[18] Ss. 386.207(1) and 561.695, F.S. DBPR enforces the FCIAA in restaurants, bowling centers, dog tracks, horse tracks, bars, billiards, bingo halls (with food service), and civic/fraternal organizations. DOH enforces the FCIAA in all facilities not regulated by DBPR. Florida Department of Health, *Florida Clean Indoor Air Act, Enforcement*, http://www.floridahealth.gov/environmental-health/indoor-air-quality/indoor-air-act/index.html (last visited March 14, 2021).
[19] S. 386.207(3), F.S.

an enclosed indoor work place commits a noncriminal violation and may be subject to a fine of up to $100 for the first violation and up to $500 for each subsequent violation.[20]

County and Municipally Owned Parks

The Division of Recreation and Parks within the Florida Department of Environmental Protection maintains a comprehensive inventory of the existing park facilities and outdoor resources in Florida. The inventory provides details about the parks and recreation areas in the state and contains information on more than 13,000 outdoor recreational facilities in Florida, the majority of which are county and municipal parks.[21]

There are 67 county park systems and more than 400 municipal park systems in the state.[22] Such parks provide a wide variety of activities to the public, including nature trails, bird watching, youth and adult athletics, bike paths, horse trails, boat ramps, fishing piers, outdoor gyms, and outdoor pavilions.[23] For example, Orange County maintains and operates 118 county-owned parks, which consist of a wide array of available activities and facilities.[24] Additionally, municipalities within Orange County also own and operate parks and outdoor recreational facilities, For example, the City of Winter Park owns and operates 11 city parks, which offer similar recreational activities to county-owned parks.[25]

Public Beaches

Florida has 825 miles of sandy coastline, attracting over 18 million tourists each year.[26] A significant portion of Florida's beaches is publicly owned, including federally-owned areas managed by the National Park Service, parts of Florida's 175 state parks, and the many beaches owned and managed by local governments on the coast.[27] In general, access to these beaches is free through the numerous public access points along the coast however; some state parks, counties and municipalities charge an access fee.

Health Concerns

In 2020, an estimated 15 percent of the adults in Florida were tobacco smokers.[28] Tobacco smoke contains over 7,000 chemicals, including hundreds that are toxic and up to 69 that are known to cause cancer.[29] More than 480,000 deaths annually in the United States are caused by cigarette smoking,

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[20] S 386.208, F.S.
[21] Florida Division of Recreation and Parks*, Florida Outdoor Recreation Inventory, available at:* https://floridadep.gov/parks/florida-outdoor-recreation-inventory (last visited March 14, 2021)
[22] Florida Department of Environmental Protection, Division of Recreation and Parks, *Frequently Asked Questions,* https://prodenv.dep.state.fl.us/DrpOrpcr/StaticFiles/FAQ.pdf (last visited March 14, 2021).
[23] *Id.*
[24] Orange County Government Florida, *Parks,* http://www.orangecountyfl.net/CultureParks/Parks.aspx (last visited March 14, 2021).
[25] City of Winter Park, *Parks*, https://cityofwinterpark.org/departments/parks-recreation/parks-playgrounds/parks/ (last visited March 14, 2021).
[26] Department of Environmental Protection, *Beaches*, https://floridadep.gov/water/beaches (last visited at March 14, 2021).
[27] National Park Service, Canaveral National Seashore*, Nature and Science*, https://www.nps.gov/cana/learn/nature/index.htm (last visited March 14, 2021). Canaveral National Seashore's 24 miles of undeveloped beach is the longest such stretch on the east coast of Florida; National Park Service, Gulf Islands National Seashore, *Things To Do*, https://www.nps.gov/guis/planyourvisit/things2do.htm (last visited March 14, 2021). Gulf Islands National Seashore stretches for 160 miles along the coasts of both Florida and Mississippi; DEP, *Beaches and Coasts at Florida State Parks*, https://www.floridastateparks.org/learn/beaches-and-coasts-florida-state-parks (last visited March 14, 2021). Florida's state parks include 100 miles of beaches; DEP, *Map of Florida's Coastal Counties*, https://floridadep.gov/fco/fcmp/documents/map-floridas-coastal-counties (last visited March 14, 2021); Office of Economic & Demographic Research, *Annual Assessment of Florida's Water Resources and Conservation Lands*, *2018 Edition*, 9, 17 (2018), *available at* http://edr.state.fl.us/content/natural-resources/LandandWaterAnnualAssessment_2018Edition.pdf (last visited March 14, 2021). Beaches in coastal counties are important for tourism and Florida's "brand"; DEP, Florida Coastal Management Program, *Final Assessment and Strategies*, *FY 2016 – FY 2020*, 30 (2015) *available at* https://floridadep.gov/sites/default/files/FCMP_FY2016-20_Assessment.pdf (last visited March 14, 2021). Based on shoreline access sites, there are approximately 439 miles of public saltwater beach in Florida.
[28] United Health Foundation, America's Health Rankings, *Annual Report*, *available at:* https://www.americashealthrankings.org/explore/annual/measure/Smoking/state/FL (last visited March 14, 2021).
[29] *Id*.; U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 148 (2014), https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf (last visited March 14, 2021).

with exposure to secondhand smoke causing an estimated 41,000 deaths each year.[30] Exposure to secondhand smoke can cause numerous health problems and has been causally linked to cancer and other fatal diseases.[31] Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker.[32] Studies suggest that secondhand smoke in crowded outdoor areas can cause concentrations of air contaminants comparable to those caused by indoor smoking.[33]

Effect of Proposed Changes

The bill authorizes counties and municipalities to further restrict smoking within the boundaries of any public beaches and public parks they own. Municipalities may further restrict smoking within the boundaries of public beaches and public parks that are within their jurisdiction, but owned by the county, unless such restriction conflicts with county ordinance.

The bill changes the title of Part II of ch. 386, F.S., from "Indoor Air: Smoking and Vaping" to "Smoking and Vaping."

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Renames Part II of chapter 386, F.S., from "INDOOR AIR: SMOKING AND VAPING" to "SMOKING AND VAPING."
Section 2 Amends s. 386.201, F.S., relating to popular name.
Section 3 Amends s. 386.209, F.S., relating to regulation of smoking preempted to state.
Section 4 Amends s. 381.84, F.S., relating to Comprehensive Statewide Tobacco Education and Use Prevention Program.
Section 5 Amends s. 386.211, F.S., relating to public announcements in mass transportation terminals.
Section 6 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[30] Centers for Disease Control and Prevention, *Tobacco-Related Mortality,* https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm (last visited March 14, 2021).
[31] U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 7 (2014); Center for Disease Control and Prevention, *Secondhand Smoke (SHS) Facts*, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm (last visited March 14, 2021).
[32] Center for Disease Control and Prevention, *Secondhand Smoke (SHS) Facts*, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm (last visited March 14, 2021).
[33] Nipapun Kungskulniti et al., *Secondhand Smoke Point-Source Exposures Assessed By Particulate Matter At Two Popular Public Beaches in Thailand*, 40 J. Public Health 3, 527–532 (2017), https://academic.oup.com/jpubhealth/article/40/3/527/4110319?guestAccessKey=5947c328-fd75-4b6c-acfe-28f989c4c639 (last visited March 14, 2021); James Repace, *Benefits of Smoke-free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios and in Motor Vehicles*, 34 WM Mitchell L. Rev. 1621, 1622–1624, 1638 (2008), https://open.mitchellhamline.edu/wmlr/vol34/iss4/15/ (last visited March 14, 2021).

1. Revenues:

   To the extent that any imposed smoking restrictions deter or encourage visitation of county and municipal beaches and parks, local governments may experience and indeterminate fluctuation in revenues generated by any fees for beach and park admittance.

2. Expenditures:

   Counties and municipalities that opt to restrict smoking within the boundaries of public parks may incur indeterminate expenses related to enacting and enforcing such restrictions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Visitors to county or municipal parks who violate smoking restrictions imposed by a county or municipality may be subject to any applicable fines or civil penalties for such violations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is not needed to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the regulation of smoking by counties and municipalities; revising the title of part II of ch. 386, F.S.; amending s. 386.201, F.S.; revising a short title; amending s. 386.209, F.S.; authorizing counties and municipalities to further restrict smoking within the boundaries of public beaches and public parks under certain circumstances; amending ss. 381.84 and 386.211, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Part II of chapter 386, Florida Statutes, entitled "INDOOR AIR: SMOKING AND VAPING," is renamed "SMOKING AND VAPING."

Section 2. Section 386.201, Florida Statutes, is amended to read:

386.201 Short title ~~Popular name~~.—This part may be cited as ~~by the popular name~~ the "Florida Clean ~~Indoor~~ Air Act."

Section 3. Section 386.209, Florida Statutes, is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and

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

supersedes any municipal or county ordinance on the subject; however, counties and municipalities may further restrict smoking within the boundaries of any public beaches and public parks that they own. Municipalities may further restrict smoking within the boundaries of public beaches and public parks that are within their jurisdiction but are owned by the county, unless such restriction conflicts with a county ordinance. School districts may further restrict smoking by persons on school district property. This section does not preclude the adoption of municipal or county ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part.

Section 4. Paragraph (h) of subsection (3) of section 381.84, Florida Statutes, is amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The program shall include the following components, each of which shall focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(h) *Enforcement and awareness of related laws.*—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Florida Clean ~~Indoor~~ Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (a) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

Section 5. Section 386.211, Florida Statutes, is amended to read:

386.211 Public announcements in mass transportation terminals.—Announcements about the Florida Clean ~~Indoor~~ Air Act shall be made regularly over public address systems in terminals of public transportation carriers located in metropolitan statistical areas with populations over 230,000 according to the latest census. These announcements shall be made at least every 30 minutes and shall be made in appropriate languages. Each announcement must include a statement to the effect that Florida is a clean ~~indoor~~ air state and that smoking and vaping are prohibited except as provided in this part.

Section 6. This act shall take effect July 1, 2021.

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		

Committee/Subcommittee hearing bill: Professions & Public Health Subcommittee

Representative Sabatini offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. This act shall be cited as the "Stop the Nanny State, Big Government, and Abolition of Individual Choice Act."

Section 2. Any county or municipality that enacts an ordinance regulating smoking on public beaches or in public parks is subject to a $10 million fine payable to Cigar Rights of America for each ordinance enacted.

Section 3. This act shall take effect July 1, 2021.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to the regulation of smoking by counties and municipalities; providing a short title; providing that any county or municipality that enacts an ordinance regulating smoking on public beaches or in public parks is subject to a fine for each such ordinance enacted; providing an effective date.

WHEREAS, commercial cigar rolling first came to Florida in the 1830s, and

WHEREAS, in the decades after the United States Civil War, cigar making became one of the most important industries in Florida, and

WHEREAS, cigar rolling grew from small-scale operations started by Cuban immigrants to encompass large factory operations that attracted immigrants from throughout Europe and Latin America to Florida's growing cities, and

WHEREAS, Florida and the cigar industry have a rich and extensive history, and

WHEREAS, the history of cigar rolling is intertwined and synonymous with the state's immigrant story, and

WHEREAS, any law limiting or deterring cigar smoking is abhorrent to Floridians and must not be allowed, NOW, THEREFORE,

HB 541

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 541 Veterans' Preference in Employment
SPONSOR(S): Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** SB 922

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Renner	Miller
2) Professions & Public Health Subcommittee		Rahming	McElroy
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires the state and its political subdivisions to give employment preference in hiring and retention to all veterans, Florida National Guard members, reserve components of the United States Armed Forces, Gold Star Mothers and Fathers, widows/widowers, legal guardians, and certain spouses who meet specified criteria. Certain government positions are exempt from the veterans' preference requirements including, but not limited to, heads of departments, personal secretaries of elected or appointed officers, and certain physicians.

Each state agency must, and each political subdivision may, develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce.

Point preferences are given to veterans and family members grouped into certain categories when a numerically based selection process is used for hiring.

The bill authorizes state agencies and political subdivisions to waive a postsecondary education requirement for a position of employment for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged if the person is otherwise qualified for the position.

The bill removes certain positions that are exempt from veterans' preference requirements as they appear to be redundant under current law.

The bill requires, rather than authorizes, political subdivisions to develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce.

The bill increases the point preferences given to veterans and their family members when a numerically based selection process is used for hiring by five points for each category.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Personnel System

The State Personnel System is the largest of the state government employers within Florida.[1] State Personnel System employees fall into four service categories:[2]

- Career Service;
- Senior Management Service (SMS);
- Selected Exempt Service (SES); and
- Other Personal Services (OPS).

SES and SMS employees hold established positions, receive employee benefits, and are exempt from career service provisions. SES and SMS employees serve at the pleasure of the agency head and may be terminated at any time, with or without cause. Positions categorized as OPS are considered temporary positions and these employees are not eligible for benefits.

Career Service System

The Career Service System includes the majority of State employees.[3] These employees hold established positions, accrue benefits, and have certain employment rights afforded to them, such as the right to collectively bargain.[4]

Under s. 110.205(2), certain positions are exempt from the Career Service System, including but not limited to:[5]

- The personal secretary of either elected or appointed officers;
- Heads of departments; and
- Positions that require licensure as a physician, an osteopathic physician, and a chiropractic physician.

Veterans' Employment Preference

Current law defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions.[6] Florida has the nation's third-largest veteran population with roughly 1.5 million veterans.[7]

[1] Department of Management Services (DMS), *For State Personnel System Employees*, https://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_employees#:~:text=Employees%20of%20the%20State%20Personnel,positions%20and%20receive%20certain%20benefits. (last visited Mar. 10, 2021).
[2] S. 110.2035, F.S.
[3] See, DMS, State of Florida New Employee Orientation, available at https://www.dms.myflorida.com/content/download/14847/82111 (last visited Mar. 11, 2021).
[4] Collective bargaining is the negotiation between an employer and a bargaining agent chosen by a group of employees to determine the terms and conditions of employment. Collective bargaining for state employees in Florida is provided by the Florida Constitution and is governed by the provisions of ch. 447, F.S.
[5] S. 110.205(2), F.S.
[6] S. 1.01(14), F.S.
[7] Enterprise Florida, *Florida Defense Factbook*, p. 1 (2020), https://www.enterpriseflorida.com/wp-content/uploads/Florida-Defense-Factbook-2020.pdf (last visited Jan. 29, 2021).

Florida has included some form of veterans' employment preference in law since 1947.[8] The purpose of having a veterans' preference is to reward those who served their country in a time of need and to recognize the qualities and traits developed by military service.[9]

The state and its political subdivisions[10] must give employment preference in hiring and retention to the following:[11]

- Disabled veterans who have served on active duty in any branch of the United States Armed Forces[12] and who presently have an existing service-connected disability which is compensable under public laws administered by the United States Department of Veterans Affairs (VA) or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the VA and the United States Department of Defense (DoD).
- The spouse of a veteran who:
    - Has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment; or
    - Is missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.
- A veteran of any war who has served at least one day during that wartime period or who has been awarded a campaign or expeditionary medal. Active duty for training may not be allowed for eligibility under this provision.
- The unremarried widow or widower of a veteran who died of a service-connected disability.
- The mother, father, legal guardian, or unremarried widow or widower of a member of the Armed Forces who died in the line of duty under combat-related conditions, as verified by the DoD.
- A veteran as defined in s. 1.01(14), F.S.
- A current member of any reserve component[13] of the United States Armed Forces or the Florida National Guard.

The following government positions are exempt from the veterans' preference requirements:[14]

- Positions that are currently exempt from the state Career Service System under s. 110.205(2); however, all positions under the University Support Personnel System of the State University System and all Career Service System positions under the Florida College System and the School for the Deaf and the Blind, or the equivalent positions at state universities, Florida College System institutions, or the School for the Deaf and the Blind are included.
- Positions in political subdivisions which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of such officer; members of boards and commissions; persons employed on a temporary basis without benefits; heads of departments; positions that require licensure as a physician, osteopathic physician, or chiropractic physician; and positions that require employees to be a member of the Florida Bar.

Each state agency must, and each political subdivision may, develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the entity's workforce.[15] Additionally, the Department of Management Services (DMS) is required to collect statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were

[8] Ch. 24201, s. 1, Laws of Fla.
[9] *Yates v. Rezeau,* 60 So. 2d 726, 727 (Fla. 1952); *See* ch. 98-33, Laws of Fla.
[10] S. 1.01(8), F.S., defines the term "political subdivision" as counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in the state.
[11] S. 295.07(1)(a)-(g), F.S.
[12] 10 USC §101(a) defines the term "Armed Forces" as the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.
[13] 10 USC §10102 provides that the purpose of reserve components is to provide trained units and qualified persons available for active duty in the United States Armed Forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the United States Armed Forces whenever more units and persons are needed than are in the regular components.
[14] S. 295.07(4)(a)-(b), F.S.
[15] S. 295.07(5)(a), F.S.

hired as a result of the veterans' recruitment plan. DMS must update the statistical data annually on its website and include the statistics in its annual workforce report.[16]

Hiring Point Preferences

If an examination is used to determine qualification for employment, points are added to the final examination score as follows:[17]

Category	Points
Disabled veteran	15
Spouse of person with total disability, missing in action, captured in line of duty, etc.	15
Wartime veteran	10
Un-remarried widow/widower of person who died of a service-connected disability	10
Gold Star family	10
Veteran	5
National Guard/Reserve	5

Each government employer is required to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings.[18] For most positions, the names of all persons qualified to receive a fifteen-point preference whose service-connected disabilities have been rated to be 30 percent or more must be placed at the top of the appropriate register or employment list, in accordance with their respective ratings.[19]

If an examination is not used to determine qualification for a position, preference is given as follows:[20]

- First preference is given to disabled veterans who have served on active duty in any branch of the Armed Forces and who presently have an existing service-connected disability which is compensable under public laws administered by the VA or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the VA and DoD; and the spouse of a veteran who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment, or who is missing in action; captured in the line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power; and
- Second preference is given to a veteran of any war; the unremarried widow or widower of a veteran who died of a service-connected disability; the mother, father, legal guardian, or un-remarried widow or widower of a servicemember who died as a result of military service under combat-related conditions; a veteran as defined in s. 1.01(14), F.S.; a current member of any reserve component of the U.S. Armed Forces or the Florida National Guard.

The Florida Department of Veterans' Affairs (FDVA) is responsible for promulgating rules or procedures to ensure that eligible persons are given special consideration in the selection and retention processes of government employers.[21] These procedures must ensure that, for positions not requiring an examination, eligible persons receive special consideration at each step of the employment selection process and receive special consideration in the retention of employees where layoffs are necessitated.[22]

[16] S. 295.07(5)(b), F.S.
[17] S. 295.08, F.S.
[18] *Id.*
[19] *Id.*
[20] S. 295.085, F.S.
[21] S. 296.07(2), F.S.
[22] *Id.*

Effect of the Bill

The bill authorizes state agencies and political subdivisions to waive a postsecondary education requirement for a position of employment for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged if the person is otherwise qualified for the position.

The bill removes the following Career Service positions that are exempt from veterans' preference requirements in s. 295.07(4)(b), as they are also exempt under the Career Service provisions of s. 295.07(4)(a), F.S., and are redundant:

- The personal secretary of either elected or appointed officers;
- Heads of departments; and
- Positions that require licensure as a physician, an osteopathic physician, and a chiropractic physician.

The bill requires, rather than authorizes, political subdivisions to develop and implement a veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in each political subdivision's workforce.

The bill increases the point preferences given to veterans and their family members when a numerically based selection process is used for hiring by five points for each category described in the chart above. As a result of the point increase, the names of the persons who are qualified to receive a twenty-point preference whose service-connected disabilities are rated to be 30 percent or more, must be placed at the top of the employment list.

Lastly, the bill makes conforming changes.

B. SECTION DIRECTORY:

Section 1 Amends s. 295.065, F.S., revising legislative intent to conform provisions.

Section 2 Amends s. 295.07, F.S., relating to preference in appointment and retention.

Section 3 Amends s. 295.08, F.S., relating to positions for which a numerically based selection process is used.

Section 4 Amends s. 295.085, F.S., conforming provisions and cross-references.

Section 5 Amends s. 295.09, F.S., conforming provisions and cross-references.

Section 6 Amends s. 1002.36, F.S., conforming provisions and cross-references.

Section 7 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have a positive impact on veterans in the state. Recruiting veterans to the state and local government workforce may increase employment for veterans.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to veterans' preference in employment; amending s. 295.065, F.S.; revising legislative intent to conform to changes made by the act; amending s. 295.07, F.S.; authorizing the state and its political subdivisions to waive certain postsecondary educational requirements for employment for servicemembers and veterans who meet specified criteria; revising the list of positions that are exempt from veterans' preference requirements; requiring, rather than authorizing, each political subdivision to develop and implement a veterans' recruitment plan for specified purposes; amending s. 295.08, F.S.; modifying point preferences given to veterans and their family members when a numerically based selection process is used for hiring; amending ss. 295.085, 295.09, and 1002.36, F.S.; conforming provisions and cross-references to changes made by the act; providing an effective date.

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

Section 1. Section 295.065, Florida Statutes, is amended to read:

295.065 Legislative intent.—It is the intent of the

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

Legislature to provide preference, ~~and~~ priority, and waivers for certain educational requirements in the hiring practices of this state and its political subdivisions as set forth in this chapter. All written job announcements and audio and video advertisements used by employing agencies of the state and its political subdivisions must include a notice stating that certain servicemembers and veterans, and the spouses and family members of such ~~the~~ servicemembers and veterans, receive preference and priority, and that certain servicemembers and veterans may be eligible to receive waivers for postsecondary educational requirements, in employment by the state and its political subdivisions and are encouraged to apply for the positions being filled.

Section 2. Section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(1) The state and its political subdivisions shall give preference in appointment and retention in positions of employment to:

(a) Those disabled veterans:

1. Who have served on active duty in any branch of the United States Armed Forces, have received an honorable discharge, and have established the present existence of a service-connected disability that is compensable under public laws administered by the United States Department of Veterans

Affairs; or

2. Who are receiving compensation, disability retirement benefits, or pension pursuant to ~~by reason of~~ public laws administered by the United States Department of Veterans Affairs and the United States Department of Defense.

(b) The spouse of a person who has a total disability, permanent in nature, resulting from a service-connected disability and who, because of this disability, cannot qualify for employment, and the spouse of a person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

(c) A wartime veteran as defined in s. 1.01(14), who has served at least 1 day during a wartime period. Active duty for training may not be allowed for eligibility under this paragraph.

(d) The unremarried widow or widower of a veteran who died of a service-connected disability.

(e) The mother, father, legal guardian, or unremarried widow or widower of a member of the United States Armed Forces who died in the line of duty under combat-related conditions, as verified by the United States Department of Defense.

(f) A veteran as defined in s. 1.01(14). Active duty for training may not be allowed for eligibility under this paragraph.

(g) A current member of any reserve component of the United States Armed Forces or the Florida National Guard.

(2) The state and its political subdivisions may waive a postsecondary educational requirement for a position of employment, other than those positions made exempt under subsection (5), for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged if the person is otherwise qualified for the position.

(3) The Department of Veterans' Affairs shall adopt rules to ensure that veterans are given special consideration in the employing agency's selection and retention processes. The rules must include the award of point values as articulated in s. 295.08, if applicable, or, where point values are not relevant, must include procedures to ensure that veterans are given special consideration at each step of the employment selection process, unless the sponsoring governmental entity is a party to a collective bargaining agreement, in which case the collective bargaining agreement must comply within 90 days following ratification of a successor collective bargaining agreement or extension of any existing collective bargaining agreement.

(4) ~~(3)~~ Preference in employment and retention, or educational waivers, may be given only to eligible persons who are described in subsection (1) or subsection (2).

(5) ~~(4)~~ The following positions are exempt from this

section:

(a) Those positions that are exempt from the state Career Service System under s. 110.205(2); however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida College System and the School for the Deaf and the Blind, or the equivalent of such positions at state universities, Florida College System institutions, or the School for the Deaf and the Blind, are not exempt ~~included~~.

(b) Positions in political subdivisions ~~of the state~~ which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices ~~and the personal secretary of each such officer~~, members of boards and commissions, persons employed on a temporary basis without benefits, ~~heads of departments, positions that require licensure as a physician, licensure as an osteopathic physician, licensure as a chiropractic physician,~~ and positions that require that the employee be a member of The Florida Bar.

(6)(a) ~~(5)(a)~~ Each state agency and political subdivision shall~~, and each political subdivision of the state may,~~ develop and implement a written veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans in the agency's or political subdivision's workforce. Each veterans' recruitment plan must be designed to meet the established goals.

(b) The Department of Management Services shall collect statistical data from each state agency on the number of persons who claim veterans' preference, the number of persons who are hired through veterans' preference, and the number of persons who are hired as a result of the veterans' recruitment plan. The department shall annually update the statistical data required by this paragraph on its website and include such statistical data in its annual workforce report.

(c) For purposes of this subsection, the veterans' recruitment plan applies to the eligible persons described in subsections ~~subsection~~ (1) and (2).

Section 3. Section 295.08, Florida Statutes, is amended to read:

295.08 Positions for which a numerically based selection process is used.—For positions for which an examination is used to determine the qualifications for entrance into employment with the state or any of its political subdivisions ~~in the state~~, 20 ~~15~~ points must ~~shall~~ be added to the earned ratings of a person included under s. 295.07(1)(a) or (b), 15 ~~10~~ points must ~~shall~~ be added to the earned ratings of a person included under s. 295.07(1)(c), (d), or (e), and 10 ~~5~~ points must ~~shall~~ be added to the earned rating of a person included under s. 295.07(1)(f) or (g), if the person has obtained a qualifying score on the examination for the position. The names of persons eligible for preference must ~~shall~~ be entered on an appropriate

register or list in accordance with their respective augmented ratings. However, except for classes of positions with Federal Government designations of professional or technician, the names of all persons who are qualified to receive a 20-point ~~15-point~~ preference whose service-connected disabilities have been rated by the United States Department of Veterans Affairs or its predecessor or the United States Department of Defense to be 30 percent or more must ~~shall~~ be placed at the top of the appropriate register or employment list, in accordance with their respective augmented ratings. The respective augmented rating is the examination score or evaluated score in addition to the applicable veteran's preference points.

Section 4. Section 295.085, Florida Statutes, is amended to read:

295.085 Positions for which a numerically based selection process is not used.—In all positions in which the appointment or employment of persons is not subject to a written examination, not including ~~with the exception of~~ positions that are exempt under s. 295.07(5) ~~s. 295.07(4)~~, first preference in appointment, employment, and retention must ~~shall~~ be given by the state and political subdivisions in the state to a person included under s. 295.07(1)(a) or (b), and second preference must ~~shall~~ be given to a person included under s. 295.07(1)(c), (d), (e), (f), or (g), who possess the minimum qualifications necessary to discharge the duties of the position involved.

Section 5. Paragraph (a) of subsection (1) of section 295.09, Florida Statutes, is amended to read:

295.09 Reinstatement or reemployment; promotion preference.—

(1)(a) When an employee of the state or any of its political subdivisions employed in a position subject or not subject to a career service system or other merit-type system, not including ~~with the exception of those~~ positions that ~~which~~ are exempt pursuant to s. 295.07(5) ~~s. 295.07(4)~~, has served in the Armed Forces of the United States and is discharged or separated therefrom with an honorable discharge, the state or its political subdivision shall reemploy or reinstate such person to the same position that he or she held before ~~prior to~~ such service in the armed forces, or to an equivalent position, provided that such person returns to the position within 1 year after ~~of~~ his or her date of separation or, in cases of extended active duty, within 1 year after ~~of~~ the date of discharge or separation subsequent to the extension. Such person must ~~shall~~ also be awarded preference in promotion and ~~shall~~ be promoted ahead of all others who are as well qualified or less qualified for the position. When an examination for promotion is used ~~utilized~~, such person must ~~shall~~ be awarded preference points, as provided in s. 295.08, and ~~shall~~ be promoted ahead of all those who appear in an equal or lesser position on the promotional register, provided that he or she first successfully

passes the examination for the promotional position.

Section 6. Paragraph (f) of subsection (4) of section 1002.36, Florida Statutes, is amended to read:

1002.36 Florida School for the Deaf and the Blind.—

(4) BOARD OF TRUSTEES.—

(f) The board of trustees shall:

1. Prepare and submit legislative budget requests for operations and fixed capital outlay, in accordance with chapter 216 and ss. 1011.56 and 1013.60, to the Department of Education for review and approval. The department must analyze the amount requested for fixed capital outlay to determine if the request is consistent with the school's campus master plan, educational plant survey, and facilities master plan. Projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

2. Approve and administer an annual operating budget in accordance with ss. 1011.56 and 1011.57.

3. Require all funds received other than gifts, donations, bequests, funds raised by or belonging to student clubs or student organizations, and funds held for specific students or in accounts for individual students to be deposited in the State Treasury and expended as authorized in the General Appropriations Act.

4. Require all purchases to be in accordance with the

provisions of chapter 287 except for purchases made with funds received as gifts, donations, or bequests; funds raised by or belonging to student clubs or student organizations; or funds held for specific students or in accounts for individual students.

5. Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 110, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

6. Give preference in appointment and retention in positions of employment as provided within s. 295.07(1) and (2).

7. Ensure that the Florida School for the Deaf and the Blind complies with s. 1013.351 concerning the coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

8. Ensure that the Florida School for the Deaf and the Blind complies with s. 112.061 concerning per diem and travel expenses of public officers, employees, and authorized persons with respect to all funds other than funds received as gifts, donations, or bequests; funds raised by or belonging to student

clubs or student organizations; or funds held for specific students or in accounts for individual students.

9. Adopt a master plan which specifies the mission and objectives of the Florida School for the Deaf and the Blind. The plan shall include, but not be limited to, procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan shall be for a period of 5 years and shall be reviewed for needed modifications every 2 years. The board of trustees shall submit the initial plan and subsequent modifications to the Speaker of the House of Representatives and the President of the Senate.

10. Designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to the late Senator Verle Allyn Pope.

Section 7. This act shall take effect July 1, 2021.

HB 543

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 543 Occupational Therapy
SPONSOR(S): Koster
TIED BILLS: **IDEN./SIM. BILLS:** SB 990

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

SUMMARY ANALYSIS

The Division of Medical Quality Assurance (MQA) within the Department of Health (DOH), has general regulatory authority over health care practitioners. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions, including occupational therapy.

Occupations are all the activities or tasks a person performs each day. Occupational therapy is the use of purposeful activity or interventions to maximize independence and maintain health. HB 543 amends the statutes that regulate the practice of occupational therapy. Specifically, the bill:

- Revises the practice of occupational therapy by including:
  - The therapeutic use of occupations with individuals, groups, or populations, along with their families or organizations in the home, school, workplace, community, and other settings;
  - Evaluation of factors that affect activities of daily living and instrumental activities of daily living;
  - Methods or approaches to direct the process of interventions; and
  - Interventions and procedures to promote or enhance safety and performance in daily living.
- Revises the fieldwork experience requirement for licensure as an occupational therapist;
- Authorizes licensed occupational therapists to use the title “occupational therapist doctorate” or the initials “O.T.D.” in connection with his or her name or business;
- Prohibits the use of the title “occupational therapist doctorate” or the initials “O.T.D.” by individuals not licensed as an occupational therapist; and
- Makes conforming changes.

The bill has an indeterminate, insignificant, negative fiscal impact on DOH. The bill does not have a fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Department of Health

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.[1] MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health care facilities and more than 40 health care professions.[2] Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

Occupational Therapy

Occupations are all the activities or tasks a person performs each day. Getting dressed, playing sports, taking a class, cooking, and working at a job are examples of occupations.[3]

Occupational therapy is the use of purposeful activity or interventions to achieve functional outcomes, meaning maximizing independence and maintaining health.[4] Occupational therapy may be used by individuals with a limiting physical injury or illness, cognitive impairment, psychosocial dysfunction, mental illness, developmental or learning disability, or adverse environmental condition.[5] Occupational therapy services routinely include:[6]

- An evaluation to determine the patient's goals;
- Intervention to improve the patient's ability to perform needed activities and reach goals; and
- An evaluation of outcomes to determine if goals are being achieved, and changing plans as necessary.

Occupational therapy is performed by licensed occupational therapists (OT), licensed occupational therapy assistants (OTA) who work under the responsible supervision and control[7] of a licensed OT, and occupational therapy aides who are not licensed but assist in the practice of occupational therapy under the direct supervision of a licensed OT or occupational therapy assistant.[8] However, physicians, physician assistants, nurses, physical therapists, osteopathic physicians or surgeons, clinical psychologists, speech-language pathologists, and audiologists are permitted to use occupational therapy skills and techniques as part of their professions, when they practice their profession under their own practice acts.[9]

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[1] Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.
[2] Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2019-2020*, available at http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/2019-2020-annual-report.pdf (last visited March 9, 2021).
[3] Britannica, *Occupational Therapy,* https://www.britannica.com/science/occupational-therapy (last visited March 9, 2021).
[4] Section 468.203(4), F.S.
[5] Id.
[6] Department of Health, Agency Analysis of 2021 House Bill 543, p. 2 (Feb. 5, 2021).
[7] Section 468.203(8), F.S. Responsible supervision and control by the licensed OT includes providing both the initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. The plan of treatment must not be changed by the supervised individual without prior consultation and approval of the supervising OT. The supervising OT is not always required to be physically present or on the premises when the occupational therapy assistant is performing services; but, supervision requires the availability of the supervising occupational therapist for consultation with and direction of the supervised individual.
[8] Section 468.203, F.S.
[9] Section 468.225, F.S.

Occupational therapy services include, but are not limited to: [10]

- The assessment, treatment, and education of, or consultation with, the individual, family, or other persons;
- Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills;
- Providing for the development of:
    - Sensory-motor, perceptual, or neuromuscular functioning;
    - Range of motion; or
    - Emotional, motivational, cognitive, or psychosocial components of performance.

These services require skilled assessment to determine the need for use of interventions, including: [11]

- The design, development, adaptation, application, or training needed to use the assistive devices;
- The design, fabrication, or application of rehabilitative technology such as selected orthotic devices;
- Training in the use of assistive technology;
- Orthotic or prosthetic devices;
- The application of physical modalities as an adjunct to or in preparation for activity;
- The use of ergonomic principles;
- The adaptation of environments and processes to enhance functional performance; or
- The promotion of health and wellness.

Education

There are four degree level programs available to individuals seeking to enter the profession of occupational therapy: [12]

- The Doctoral-Degree-Level Occupational Therapist (Ph.D.);
- Master's-Degree-Level Occupational Therapist (O.T.R.);
- Baccalaureate-Degree-Level Occupational Therapy Assistant (certified occupational therapy assistant or C.O.T.A.); and
- Associate-Degree-Level Occupational Therapy Assistant (also a C.O.T.A.).

Such programs are available through institutions accredited by the Accreditation Council for Occupational Therapy Education (ACOTE), which is the certifying arm of the American Occupational Therapy Association (AOTA). ACOTE requirements for accreditation for occupational therapy curriculum vary by degree levels, but all levels must include theory, basic tenets of occupational therapy, and supervised educational fieldwork for accreditation. Examples of required theory and basic tenets for occupational therapy accreditation include:

- Theory:
    - Preparation to Practice as a Generalist;
    - Preparation and Application of In-depth Knowledge;
    - Human Body, Development, and Behavior;
    - Sociocultural, Socioeconomic, Diversity Factors, and Lifestyle Choices; and

[10] Section 468.203(4)(b), F.S.
[11] Section 468.203(4)a.2.,F.S. "Assessment" means the use of skilled observation or the administration and interpretation of standardized or non-standardized tests and measurements to identify areas for occupational therapy services.
[12] National Board of Certification in Occupational Therapy, 2018 Accreditation Council for Occupational Therapy Education (ACOTE®) *Standards and Interpretive Guide (effective July 31, 2020) August 2020 Interpretive Guide Version,* at pp. 20 and 49, https://acoteonline.org/wp-content/uploads/2020/10/2018-ACOTE-Standards.pdf (last visited March 9, 2021). The Ph.D. in occupational therapy requires a minimum of six years of full time academic education and a Doctorial Capstone which is an in-depth exposure to a concentrated area, which is an integral part of the program's curriculum design. This in-depth exposure may be in one or more of the following areas: clinical practice skills, research skills, scholarship, administration, leadership, program and policy development, advocacy, education, and theory development. The doctoral capstone consists of two parts: the capstone experience and the capstone project.

    - Social Determinants of Health.
- Basic Tenets:
    - Therapeutic Use of Self;
    - Clinical Reasoning;
    - Behavioral Health and Social Factors;
    - Remediation and Compensation;[13]
    - Orthoses and Prosthetic Devices;[14]
    - Functional Mobility;[15]
    - Community Mobility;[16]
    - Technology in Practice;[17]
    - Dysphagia[18] and Feeding Disorders;
    - Superficial Thermal, Deep Thermal, and Electrotherapeutic Agents and Mechanical Devices; and
    - Effective Communication.

Occupational therapy candidates are required to complete two levels of fieldwork, the second of which depends on the degree level sought.[19] Level I fieldwork required for Ph.D., O.T.R., and C.O.T.A. candidates can be met through one or more of the following instructional methods:[20]

- Simulated environments;
- Standardized patients;
- Faculty practice;
- Faculty-led site visits; and
- Supervision by a fieldwork instructor.

Level II fieldwork required for Doctorate level and Master's level candidates includes a minimum of 24 weeks of full-time level II fieldwork which may be completed in one setting if reflective of more than one practice area, or in a maximum of four different settings.[21] Baccalaureate level and Associate degree level candidates are required to complete a minimum of 16 weeks full-time level II fieldwork which may be completed in one setting if reflective of more than one practice area, or in a maximum of three different settings.[22]

Licensure

To be licensed as an occupational therapist, or occupational therapy assistant, an individual must:[23]

- Submit the licensure application and required application fee of $100;
- Be of good moral character;
- Have graduated from an ACOTE/AOTA accredited occupational therapy program or occupational therapy assistant program;

[13] *Supra* note 12, p. 29. Remediation and Compensation includes the design and implement intervention strategies to remediate and/or compensate for functional cognitive deficits, visual deficits, and psychosocial and behavioral health deficits that affect occupational performance.
[14] *Supra* note 12, p. 30. Orthoses and Prosthetic Devices requires the assessment of the need for orthotics, and design, fabricate, apply, fit, and train in orthoses and devices used to enhance occupational performance and participation.
[15] Id. Functional Mobility provides recommendations and training in techniques to enhance functional mobility, including physical transfers, wheelchair management, and mobility devices.
[16] *Supra* note 12, p. 30. Community Mobility designs programs that enhance community mobility, and implement transportation transitions, including driver rehabilitation and community access.
[17] *Supra* note 12, p. 31. Technology in Practice requires the demonstration of knowledge of the use of technology in practice, which must include: Electronic documentation systems; virtual environments; and telehealth technology.
[18] Tabor's Cyclopedia Medical Dictionary, 17th Edition, pub.1993, F.A. Davis and Co., *Dysphonia* is the inability to swallow or difficulty swallowing.
[19] *Supra* note 12, p. 39.
[20] Id.
[21] Id at p. 42.
[22] Id.
[23] Section 468.209, F.S. and ch. 64B-11.2003, F.A.C.

- Have completed a minimum of six months of supervised fieldwork experience for occupational therapists, and a minimum of two months for occupational therapy assistants, at a recognized educational institution or a training program approved by the education institution where you met the academic requirements; and
- Have passed an examination approved by NBCOT.

Applicants who have practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for four years and who, prior to January 24, 1988, have completed a minimum of six months of supervised occupational-therapist-level fieldwork experience may also obtain licensure. Such individuals may take the examination approved by the NBCOT to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists to have graduated from a program accredited by the ACOTE/AOTA.[24]

Endorsement is another path to licensure for an occupational therapists, or occupational therapist assistants, in which the Board may waive the examination requirement and grant a license to any person who presents proof of: [25]

- A current certification as an occupational therapist or occupational therapy assistant by a national certifying organization if the Board determines the requirements for such certification to be equivalent to the requirements for Florida licensure; or
- A current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or any territory or jurisdiction of the United States or foreign national jurisdiction which requires standards for licensure determined by the Board to be equivalent to the requirements for Florida licensure.

In fiscal year 2019-2020, there were 8,764 active licensed occupational therapists and 5,865 active licensed occupational therapy assistants in Florida.[26]

Prohibitions

Currently, a person may not use the title, “occupational therapist,” “licensed occupational therapist,” “occupational therapist registered,” “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant;” or the letters “O.T.,” “L.O.T.,” “O.T.R.,” “O.T.A.,” “L.O.T.A.,” or “C.O.T.A.;” or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant, unless the person holds a valid license. Any person who does so commits a second degree misdemeanor.[27]

Effect of Proposed Changes

Occupational Therapy

The bill revises occupational therapy to include the therapeutic use of occupations with individuals, groups, or populations, along with their families or organizations to support participation, performance, and function in roles and situations in the home, school, workplace, community, and other settings. Under the bill, occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness for clients with disability and nondisability-related needs. Such services include acquisition and preservation of occupational identity for clients who have or are at risk for developing an:

- Illness;
- Injury;
- Disease;

[24] Section 468.209(2), F.S.
[25] Section 468.213, F.S.
[26] Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan for 2019-2020,* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/2019-2020-annual-report.pdf (last visited March 9, 2021).
[27] Sections 468.215 and 468.223, F.S.

- Disorder;
- Condition;
- Impairment;
- Disability;
- Activity limitation; or
- Participation restriction.

The bill specifies that occupational therapy supports occupational performance in persons with, or at risk of experiencing, a range of disorders and disabilities.

The bill revises the practice of occupational therapy to include:

- Evaluation of factors that affect activities of daily living and instrumental activities of daily living;
- Methods or approaches selected to direct the process of interventions, including, but not limited to:
    - Establishment, remediation, or restoration of a skill or ability that has not yet been developed, is impaired, or is in decline;
    - Compensation, modification, or adaptation of activities to improve or enhance performance;
    - Maintenance of capabilities without which everyday life occupations would decline;
    - Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities and quality of life and
    - Prevention of barriers to performance and participation, including injury and disability prevention, and occupational deprivation.
- Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation, including, but not limited to:
    - Therapeutic use of occupations, exercises, and activities;
    - Training in self-care, self-management, health management and maintenance, home management, community or work reintegration, and school activities and work performance;
    - Identification, development, remediation, or compensation of neuro-musculoskeletal, sensory-perceptual, emotional regulation, visual, mental, and cognitive functions, pain tolerance and management, mental and behavioral health, praxis, developmental skills, and behavioral skills;
    - Education and training of individuals, including family members, caregivers, groups, and other populations;
    - Care coordination, case management, transition services, and consultative services to individuals, groups, or populations, along with their families and communities or organizations;
    - Group interventions facilitating learning, skills acquisition, and occupational performance of groups, populations, or organizations across the life course;
    - Mental health services and behavioral health services for the promotion of occupational performance and participation;
    - Facilitating occupational performance of individuals, groups, or populations through modification of contexts and adaptation of processes, including the application of ergonomic principles;
    - Assessment, design, fabrication, application, fitting, and training in seating and positioning of assistive technology, adaptive devices, orthotic devices, and custom orthoses, and training in the use of prosthetic devices;
    - Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices;
    - Remediation and compensation of visual deficits including low rehabilitation;
    - Driving skills rehabilitation and community mobility;
    - Management of feeding, eating, and swallowing to enable eating and feeding performance;

- Application of physical agent and mechanical modalities and use of a range of therapeutic procedures to enhance performance skills; and
- Efforts directed toward promoting occupational justice and empowering clients to seek and obtain resources to fully participate in occupations.

Education

The bill requires an occupational therapy applicant to complete a minimum of 24 weeks, instead of six months, of the fieldwork needed to obtain licensure because the fieldwork required to obtain a degree in occupational therapy is tracked by weeks, not months.

Prohibitions

The bill authorizes licensed occupational therapists to use the title "occupational therapist doctorate" or the initials "O.T.D." in connection with his or her name or business. The bill also prohibits the use of the title "occupational therapist doctorate" or the initials "O.T.D." by individuals not licensed as an occupational therapist.

The bill makes conforming changes.

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 468.203, F.S., relating to definitions.
Section 2 Amends s. 468.209, F.S., relating to requirements for licensure.
Section 3 Amends s. 468.215, F.S., relating to issuance of license.
Section 4 Amends s. 468.223, F.S., relating to prohibitions; penalties.
Section 5 Amends s. 468.225, F.S., relating to exemptions.
Section 6 Reenacts s. 1002.385, F.S., relating to the Gardiner Scholarship.
Section 7 Reenacts s. 1002.66, F.S., relating to specialized instructional services for children with disabilities.
Section 8 Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has an indeterminate, insignificant, negative fiscal impact on DOH. DOH may experience an increase in workload associated with additional complaints, which current resources are adequate to absorb.[28]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

[28] Supra, note 6 at p. 5.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None. The bill does not appear to affect county of municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Board of Occupational Therapy has sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to occupational therapy; amending s. 468.203, F.S.; revising and providing definitions; amending s. 468.209, F.S.; revising the fieldwork experience requirement for certain persons to take the examination for licensure as an occupational therapist; amending s. 468.215, F.S.; authorizing licensed occupational therapists to use a specified title and initials in accordance with the rules of a national certifying organization; amending s. 468.223, F.S.; prohibiting certain persons from using a specified title and initials; providing criminal penalties; amending s. 468.225, F.S.; providing construction; reenacting ss. 1002.385(5)(c) and 1002.66(2)(c), F.S., relating to the Gardiner Scholarship and specialized instructional services for children with disabilities, respectively, to incorporate the amendments made by the act; providing an effective date.

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

Section 1. Subsection (4) of section 468.203, Florida Statutes, is amended to read:

468.203 Definitions.—As used in this act, the term:

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

(4) "Occupational therapy" means the therapeutic use of occupations with individuals, groups, or populations, along with their families or organizations to support participation, performance, and function in roles and situations in the home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness for clients with disability and nondisability-related needs. These services include acquisition and preservation of occupational identity for clients who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Through engagement in everyday activities, occupational therapy supports occupational performance in persons with, or at risk of experiencing, a range of developmental, physical, cognitive, behavioral, mental health, and other disorders and disabilities ~~purposeful activity or interventions to achieve functional outcomes~~.

(a) For the purposes of this subsection:

1. "Activities of daily living" means functions and tasks for self-care which are performed on a daily or routine basis, including functional mobility, bathing, dressing, eating and swallowing, personal hygiene and grooming, toileting, and other similar tasks. ~~"Achieving functional outcomes" means to maximize the independence and the maintenance of health of any individual~~

~~who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition.~~

2. "Assessment" means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

3. "Behavioral health services" means the promotion of occupational performance and participation through services to support and facilitate the prevention and treatment of, and for the management and recovery from, mental health and substance abuse disorders, within the scope of occupational therapy practice. These include services to support positive mental health, prevention of mental health disorders, and direct individual and group interventions for the purpose of improving occupational participation and performance.

4. "Health management" means activities related to developing, managing, and maintaining health and wellness, including self-management, with the goal of improving or maintaining health to support participation in occupations.

5. "Instrumental activities of daily living" means daily or routine activities a person must perform to live independently within the home and community.

6. "Mental health services" means the promotion of

occupational performance and participation related to mental health, coping, resilience, and well-being. These services include the treatment of mental health and substance abuse disorders, by providing individual, group, and population level supports and services to those who are at risk, experiencing, or in recovery from these conditions, along with their families and communities, within the scope of occupational therapy practice.

7. "Occupations" means meaningful and purposeful everyday activities performed and engaged in by individuals, groups, populations, families, or communities which occur in contexts and over time, being broadly categorized as activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation. The term includes more specific occupations and execution of multiple activities that are influenced by performance patterns, performance skills, and client factors, resulting in varied outcomes.

8. "Occupational performance" means the ability to perceive, desire, recall, plan, and carry out roles, routines, tasks, and subtasks for the purpose of self-maintenance, self-preservation, productivity, leisure, and rest, for oneself or others, in response to internal or external demands of occupations and contexts.

(b) The practice of occupational therapy includes ~~services include~~, but is ~~are~~ not limited to:

1. Evaluation of factors that affect activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation including context, performance patterns, performance skills, and client factors ~~The assessment, treatment, and education of or consultation with the individual, family, or other persons~~.

2. Methods or approaches selected to direct the process of interventions including, but not limited to:

a. Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline.

b. Compensation, modification, or adaptation of activity contexts to improve or enhance performance.

c. Maintenance of capabilities without which performance in everyday life occupations would decline.

d. Health promotion and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities and quality of life.

e. Prevention of the occurrence or emergence of barriers to performance and participation, including injury and disability prevention, and occupational deprivation ~~Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills~~.

3. Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation, including, but not limited to:

a. Therapeutic use of occupations, exercises, and activities.

b. Training in self-care, self-management, health management and maintenance, home management, community or work reintegration, and school activities and work performance.

c. Identification, development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, emotional regulation, visual, mental, and cognitive functions, pain tolerance and management, mental and behavioral health, praxis, developmental skills, and behavioral skills.

d. Education and training of individuals, including family members, caregivers, groups, and other populations.

e. Care coordination, case management, transition services, and consultative services to individuals, groups, or populations, along with their families and communities or organizations.

f. Group interventions facilitating learning, skills acquisition, and occupational performance of groups, populations, or organizations across the life course.

g. Mental health services and behavioral health services

for the promotion of occupational performance and participation.

h. Facilitating occupational performance of individuals, groups, or populations through modification of contexts and adaptation of processes, including the application of ergonomic principles.

i. Assessment, design, fabrication, application, fitting, and training in seating and positioning of assistive technology, adaptive devices, orthotic devices, custom orthoses, and training in the use of prosthetic devices.

j. Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.

k. Remediation and compensation of visual deficits including low rehabilitation.

l. Driving skills rehabilitation and community mobility.

m. Management of feeding, eating, and swallowing to enable eating and feeding performance.

n. Application of physical agent and mechanical modalities and use of a range of therapeutic procedures to enhance performance skills.

o. Efforts directed toward promoting occupational justice and empowering clients to seek and obtain resources to fully participate in occupations ~~Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or~~

~~psychosocial components of performance~~.

~~These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology; orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.~~

(c) The use of devices subject to 21 C.F.R. s. 801.109 and identified by the board is expressly prohibited except by an occupational therapist or occupational therapy assistant who has received training as specified by the board. The board shall adopt rules to carry out the purpose of this provision.

Section 2. Subsection (2) of section 468.209, Florida Statutes, is amended to read:

468.209 Requirements for licensure.—

(2) An applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for 4 years and who, before ~~prior to~~ January 24, 1988, completed a minimum of 24 weeks ~~6 months~~ of supervised

occupational-therapist-level fieldwork experience may take the examination to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists made otherwise applicable under paragraph (1)(b).

Section 3. Subsection (2) of section 468.215, Florida Statutes, is amended to read:

468.215 Issuance of license.—

(2) Any person who is issued a license as an occupational therapist under the terms of this act may use the words "occupational therapist," "licensed occupational therapist," "occupational therapist doctorate," or "occupational therapist registered," or he or she may use the letters "O.T.," "L.O.T.," "O.T.D.," or "O.T.R.," in connection with his or her name or place of business to denote his or her registration hereunder.

Section 4. Section 468.223, Florida Statutes, is amended to read:

468.223 Prohibitions; penalties.—

(1) A person may not:

(a) Practice occupational therapy unless such person is licensed pursuant to ss. 468.201-468.225;

(b) Use, in connection with his or her name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapist doctorate," "occupational therapist registered," "occupational therapy assistant," "licensed occupational therapy assistant,"

"certified occupational therapy assistant"; the letters "O.T.," "L.O.T.," "O.T.D.," "O.T.R.," "O.T.A.," "L.O.T.A.," or "C.O.T.A."; or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant or, in any way, orally or in writing, in print or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant unless the person is a holder of a valid license issued pursuant to ss. 468.201-468.225;

(c) Present as his or her own the license of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a license that ~~which~~ has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ unlicensed persons to engage in the practice of occupational therapy; or

(g) Conceal information relative to any violation of ss. 468.201-468.225.

(2) Any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. Paragraph (e) is added to subsection (1) of section 468.225, Florida Statutes, to read:

468.225 Exemptions.—

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(e) Any person fulfilling an occupational therapy doctoral capstone experience that involves clinical practice or projects.

Section 6. For the purpose of incorporating the amendment made by this act to section 468.203, Florida Statutes, in a reference thereto, paragraph (c) of subsection (5) of section 1002.385, Florida Statutes, is reenacted to read:

1002.385 The Gardiner Scholarship.—

(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be used to meet the individual educational needs of an eligible student and may be spent for the following purposes:

(c) Specialized services by approved providers or by a hospital in this state which are selected by the parent. These specialized services may include, but are not limited to:

1. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.

2. Services provided by speech-language pathologists as defined in s. 468.1125.

3. Occupational therapy services as defined in s. 468.203.

4. Services provided by physical therapists as defined in s. 486.021.

5. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an

implant or assistive hearing device.

A provider of any services receiving payments pursuant to this subsection may not share, refund, or rebate any moneys from the Gardiner Scholarship with the parent or participating student in any manner. A parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services that are paid for using Gardiner Scholarship funds.

Section 7. For the purpose of incorporating the amendment made by this act to section 468.203, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 1002.66, Florida Statutes, is reenacted to read:

1002.66 Specialized instructional services for children with disabilities.—

(2) The parent of a child who is eligible for the prekindergarten program for children with disabilities may select one or more specialized instructional services that are consistent with the child's individual educational plan. These specialized instructional services may include, but are not limited to:

(c) Occupational therapy as defined in s. 468.203.

Section 8. This act shall take effect July 1, 2021.

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	_____

Committee/Subcommittee hearing bill: Professions & Public Health Subcommittee

Representative Koster offered the following:

Amendment

Remove lines 30-176 and insert:

school, workplace, community, and other settings for clients who have or are at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction ~~purposeful activity or interventions to achieve functional outcomes~~.

(a) For the purposes of this subsection:

1. "Activities of daily living" means functions and tasks for self-care which are performed on a daily or routine basis, including functional mobility, bathing, dressing, eating and swallowing, personal hygiene and grooming, toileting, and other

similar tasks. ~~"Achieving functional outcomes" means to maximize the independence and the maintenance of health of any individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition.~~

2. "Assessment" means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

3. "Behavioral health services" means the promotion of occupational performance through services to support positive mental health by providing direct individual and group interventions to improve the client’s participation in daily occupations.

4. "Health management" means activities related to developing, managing, and maintaining health and wellness, including self-management, with the goal of improving or maintaining health to support participation in occupations.

5. "Instrumental activities of daily living" means daily or routine activities a person must perform to live independently within the home and community.

6. "Mental health services" means the promotion of occupational performance related to mental health, coping, resilience, and well-being by providing individual, group, and

population level supports and services to improve the client's participation in daily occupations for those who are at risk of, experiencing, or in recovery from these conditions, along with their families and communities.

7. "Occupations" means meaningful and purposeful everyday activities performed and engaged in by individuals, groups, populations, families, or communities which occur in contexts and over time, such as activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation. The term includes more specific occupations and execution of multiple activities that are influenced by performance patterns, performance skills, and client factors, resulting in varied outcomes.

8. "Occupational performance" means the ability to perceive, desire, recall, plan, and carry out roles, routines, tasks, and subtasks for the purpose of self-maintenance, self-preservation, productivity, leisure, and rest, for oneself or others, in response to internal or external demands of occupations and contexts.

(b) The practice of occupational therapy includes ~~services include~~, but is ~~are~~ not limited to:

1. Assessment, treatment, education of, and consultation with, individuals, groups, and populations whose abilities to participate safely in occupations, including activities of daily

living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, are impaired or at risk for impairment due to issues related, but not limited to, developmental deficiencies, the aging process, learning disabilities, physical environment and sociocultural context, physical injury or disease, cognitive impairments, and psychological and social disabilities; ~~The assessment, treatment, and education of or consultation with the individual, family, or other persons~~.

2. Methods or approaches to determine abilities and limitations related to performance of occupations, including but not limited to, the identification of physical, sensory, cognitive, emotional, or social deficiencies ~~Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills~~.

3. Specific occupational therapy techniques used for treatment that involve, but are not limited to, training in activities of daily living; environmental modification; assessment of the need for the use of interventions such as the design, fabrication, and application of orthotics or orthotic devices; selecting, applying, and training in the use of assistive technology and adaptive devices; sensory, motor, and cognitive activities; therapeutic exercises; manual techniques; physical agent modalities; behavioral health services; and

mental health services~~Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance~~.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 697 Injured Police Canines
SPONSOR(S): Killebrew
TIED BILLS: **IDEN./SIM. BILLS:** SB 388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee		Guzzo	McElroy
2) Regulatory Reform Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Emergency medical transport services, also known as ambulance services, involve urgent pre-hospital treatment to an injured person by paramedics and emergency medical technicians (EMTs) during transport to a hospital or similar facility. Florida law does not currently address whether an animal may be provided emergency medical transport services; however, paramedics and EMTs are not authorized to provide emergency medical care to animals under their respective licenses.

A veterinarian is a licensed health care practitioner who engages in the maintenance of health and treatment of injury and disease of animals, especially domestic animals. With limited exceptions, only licensed veterinarians may provide care to animals. The Department of Business and Professional Regulation (DBPR) may issue a notice to cease and desist to any person it has probable cause to believe is practicing, or attempting to practice, veterinary medicine without a license. DBPR may also impose an administrative penalty not to exceed $5,000 per incident or may issue a citation.

Specially-trained dogs are used by various agencies and departments throughout the state in their K-9 units. These departments employ dogs to assist with tracking and apprehending offenders, narcotics and bomb detection, and building and article searches. Police canines are used in conjunction with high-intensity, criminal situations and are often deployed by their handlers to chase fleeing felons. As a result, the dogs are often caught in the line of fire while on the job.

HB 697 expressly authorizes an emergency service transport vehicle permit holder to transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency department, or similar facility if no person requires medical attention or transport. The bill authorizes paramedics and EMTs to provide emergency medical care to an injured police canine at the scene of an emergency or while the canine is being transported.

The bill provides civil and criminal immunity for EMTs and paramedics providing emergency care to an injured police canine and exempts them from the application of the veterinary practice act for providing medical care to a police canine injured in the line of duty.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Emergency Medical Transport Services

Prehospital life support transport services fall into two general categories – basic life support services (BLS) and advanced life support services (ALS).

BLS services include the assessment or treatment by a person qualified under part III of ch. 401, F.S., through the use of techniques described in the EMT-Basic National Standard Curriculum or the National Emergency Medical Services (EMS) Education Standards of the U.S. Department of Transportation.[1] The term includes the administration of oxygen and other techniques that have been approved and are performed under specific conditions.[2] BLS services are usually performed by EMTs.[3]

ALS services include patient assessment or treatment including the implementation of advanced medical skills such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards.[4] ALS services can be performed on site and are usually provided by physicians or paramedics.[5]

To obtain a transport vehicle permit to provide BLS or ALS services, an applicant must provide to the Department of Health the following:

- An application and required fees; and
- Documentation that the vehicle qualifies as follows:
  - Is furnished with essential medical supplies and equipment which is in good working order;
  - Meets appropriate standards for design and construction;
  - Is equipped with an appropriate communication system;
  - Meets appropriate safety standards;
  - Meets sanitation and maintenance standards;
  - Is insured for a minimum of $100,000/$300,000 against injuries to or the death of any person arising out of an accident; and
  - Has been awarded a Certificate of Public Convenience and Necessity (COPCN).[6]

Emergency Medical Technicians and Paramedics

An emergency medical technician (EMT) must be certified by the Department of Health (DOH) to perform basic life support.[7] A paramedic must also be certified by DOH, but in addition to basic life support, a certified paramedic may also perform advanced life support.[8] Applicants for certification as

[1] United States Department of Transportation, National Highway Traffic Safety Administration, *National Emergency Medical Services Education Standards*, (January 2009), *available at* https://www.ems.gov/pdf/National-EMS-Education-Standards-FINAL-Jan-2009.pdf (last visited March 11, 2021).
[2] Sections 401.23(7) and (8), F.S.
[3] Ryynanen, et. al, *Is advanced life support better than basic life support in prehospital care? A systematic review*, Scand J Trauma Resusc. Emerg. Med. 2010; 18: 62, (November 23, 2010), *available at* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3001418/ (last visited March 11, 2021).
[4] Sections 401.23(1) and (2), F.S.
[5] Ryynanen, et. al, supra note 18.
[6] Section 401.26(2), F.S., and Fla. Admin. Code R. 64J-1.002 and 64J-1.003 (2019).
[7] Section 401.23(11), F.S.
[8] Section 401.23(17), F.S.

an EMT or paramedic are required to complete a training program approved by DOH, which must be equivalent to the most recent EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation.[9] They are also required to:

- Certify under oath that he or she is not addicted to alcohol or any controlled substance;
- Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties; and
- Pass an exam within 2 years after completion of a training program.[10]

An EMT is required to hold a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by department rule. Paramedics must hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent.

Current law does not authorize an EMT or a paramedic to provide emergency medical services to animals, including canines.

Veterinary Medical Care and Treatment for Canines

The practice of veterinary medicine is licensed and regulated by the Department of Business and Professional Regulation (DBPR), Board of Veterinary Medicine.[11] A veterinarian is a licensed health care practitioner who engages in the practice of veterinary medicine which the Legislature has determined can be potentially dangerous to the public health and safety if conducted by incompetent and unlicensed practitioners.[12] The practice of veterinary medicine consists of: [13]

- The diagnosis of medical conditions of animals;
- Prescribing, dispensing, or administering drugs, medicine, appliances, and applications for animals;
- The treatment of animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease;
- The performance of any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; and
- The determination of the health, fitness, or soundness of an animal.

Veterinary medicine includes: [14]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology; and
- Any other veterinary medicine specialty.

[9] Section 401.27(4)(a), F.S.
[10] Section 401.27(4)(b)(c) and (d), F.S.
[11] Chapter 474, F.S.; and *see* s. 20.165, F.S.
[12] Ss. 474.201 and 407.202(11), F.S.
[13] S. 474.202(9), F.S.
[14] S. 474.202(13), F.S.

Section 474.202, F.S., defines an animal as a wild or domestic, dead or alive, bird, amphibian, fish, reptile, or mammal, other than a human being. A dog, or canine, is a mammal.[15] It is the responsibility of every veterinarian licensed and practicing in Florida to provide, either personally or through another licensed veterinarian, 24-hour emergency services for all animals under his or her continuing care.[16]

DBPR may issue a notice to cease and desist to any person it has probable cause to believe is practicing, or attempting to practice, veterinary medicine without a license, or aiding and abetting a person to practice veterinary medicine without a license. If the person fails to comply with the notice, DBPR may file a proceeding seeking an injunction or a writ of mandamus. Additionally, DBPR may impose an administrative penalty not to exceed $5,000 per incident or may issue a citation.[17]

Section 474.203, F.S., provides exemptions from veterinary licensure for certain individuals and entities, including: [18]

- Any faculty member who is a graduate of a school or college of veterinary medicine and is practicing only in conjunction with teaching duties at a school or college of veterinary medicine located in this state and accredited by the American Veterinary Medical Association Council on Education;
- A person practicing as an intern or resident veterinarian who is a graduate of a school or college of veterinary medicine;
- A student in a school or college of veterinary medicine while in the performance of duties assigned by her or his instructor or when working as a preceptor under the immediate supervision of a licensee, if such preceptorship is required for graduation from an accredited school or college of veterinary medicine;
- Any doctor of veterinary medicine in the employ of a state agency or the United States Government while actually engaged in the performance of her or his official duties, however, this exemption does not apply to such person when the person is not engaged in carrying out her or his official duties or is not working at the installations for which her or his services were engaged;
- Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals;
- A person hired on a part-time or temporary basis, or as an independent contractor, by an owner to assist with herd management and animal husbandry tasks for herd and flock animals, including castration, dehorning, parasite control, and debeaking, or a person hired on a part-time or temporary basis, or as an independent contractor, by an owner to provide farriery and manual hand floating of teeth on equines;
- State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof, which or who conduct experiments and scientific research on animals in the development of pharmaceuticals, biologicals, serums, or methods of treatment, or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine;
- Any veterinary aide, nurse, laboratory technician, preceptor, or other employee of a licensed veterinarian who administers medication or who renders auxiliary or supporting assistance under the responsible supervision of a licensed veterinarian, including those tasks identified by rule of the board requiring immediate supervision;
- A veterinarian, licensed by and actively practicing veterinary medicine in another state, who is board certified in a specialty recognized by the board and who responds to a request of a

[15] Merriam-Webster On-line Dictionary, Dog or Canine is a highly variable domestic mammal (Canis familiaris) closely related to the gray wolf, *available at* https://www.merriam-webster.com/dictionary/dog (last visited March 11, 2021).
[16] Fla. Admin. Code R. 61G18-19.001 (2019).
[17] S. 455.228, F.S.
[18] Section 474.203, F.S.

veterinarian licensed in this state to assist with the treatment on a specific case of a specific animal or with the treatment on a specific case of the animals of a single owner, as long as the veterinarian licensed in this state requests the other veterinarian's presence; and

- An employee, an agent, or a contractor of a public or private animal shelter, humane organization, or animal control agency operated by a humane organization or by a county, a municipality, or another incorporated political subdivision whose work is confined solely to the implantation of a radio frequency identification device microchip for dogs and cats.

Special K-9 Units

Specially-trained dogs are used by various agencies and departments throughout the state in their K-9 units. These departments employ dogs to assist with tracking and apprehending offenders, narcotics and bomb detection,[19] and building and article searches.[20] Additionally, some fire departments use dogs as part of arson detection programs.[21] Various non-profit organizations also use dogs for the purpose of search and rescue, such as the Community Emergency Response Team, which provides support to the federal Emergency Management Agency.[22]

Police Canines

Section 843.19, F.S., defines the term "police canine" for law enforcement purposes as any canine that is owned, or the service of which is employed, by a law enforcement agency or a correctional agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

Police dogs are frequently used in conjunction with high-intensity, criminal situations and are often deployed by their handlers to chase fleeing felons. As a result, the dogs can be caught in the line of fire while on the job. In September 2018, 3-year-old Fang, a member of Jacksonville Sheriff's Office canine unit, was shot and killed by a teenager who was fleeing a scene after carjacking two women at a gas station minutes earlier.[23] Similarly, in December 2018, 3-year-old Cigo with the Palm Beach County Sheriff's Office was shot and killed by an attempted murder suspect outside of a shopping mall.[24] In 2020, 48 police canines were killed in the line of duty in Florida.[25] In 2019, the Legislature, recognizing the ongoing danger to and violence against police canines, increased the penalty for causing harm to or using a deadly weapon against a police canine from a third degree felony to a second degree felony.[26, 27]

Effect of the Bill

The bill creates s. 401.254, F.S., to authorize an emergency service transport vehicle permit holder to transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency

[19] City of Orlando, *K-9 Unit*, *available at* http://www.cityoforlando.net/police/k-9-unit/ (last visited March 11, 2021).
[20] St. Petersburg Police Department, *K-9 Unit*, *available at* http://police.stpete.org/k-9 (last visited March 11, 2021).
[21] City of Orlando, *Accelerant Detection Canines*, *available at* http://www.cityoforlando.net/fire/accelerant-detection-canines/ (last visited March 11, 2021).
[22] Boondocks K9 SAR-CERT Unit, *Community Emergency Response Team (CERT)*, *available at* https://www.boondocksk9.org/ (last visited March 11, 2021).
[23] Tarik Mino and Colette DuChanois, *Audio, video evidence released in case of teen held in K-9's death*, NEWS4JAX (November 12, 2018), *available at* https://www.news4jax.com/news/2018/11/13/audio-video-evidence-released-in-case-of-teen-held-in-k-9s-death/ (last visited March 11, 2021).
[24] Mark Osborne and Jason M. Volack, *Suspect kills police dog in shootout outside mall on Christmas Eve, police say*, ABC NEWS (December 25, 2018), *available at* https://abcnews.go.com/US/suspect-kills-police-dog-shootout-mall-christmas-eve/story?id=60007552 (last visited March 11, 2021).
[25] Officer Down Memorial Page, *Florida Line of Duty Deaths*, *available at* https://www.odmp.org/search/browse/florida (last visited March 11, 2021).
[26] Chapter 2019-9, Laws of Fla. (2019).
[27] A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. A second degree felony is punishable by up to 15 years imprisonment and up to a $10,000 fine. Sections 775.082 and 775.083, F.S.

department, or similar facility if no person requires medical attention or transport when the canine needs it.

The bill defines the term “police canine” as any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; enforcement of laws; investigation of fires; or apprehension of offenders.

The bill authorizes EMTs and paramedics to provide emergency medical care to an injured police canine at the scene of the emergency or while being transported. The bill provides civil and criminal immunity for EMTs and paramedics who act in good faith to provide emergency care to an injured police canine and exempts them from the application of the veterinary practice act for providing medical care to a police canine injured in the line of duty.

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Creates s. 401.254, F.S., related to treatment of injured police canines.
Section 2: Amends s. 474.203, F.S., related to exemptions.
Section 3: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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:

No additional rule-making authority is needed to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to injured police canines; creating s. 401.254, F.S.; defining the term "police canine"; authorizing licensed life support services to transport injured police canines under certain circumstances; authorizing a paramedic or an emergency medical technician to provide emergency medical care to injured police canines under certain circumstances; providing for immunity from criminal and civil liability under certain circumstances; amending s. 474.203, F.S.; providing applicability; providing an effective date.

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

Section 1. Section 401.254, Florida Statutes, is created to read:

401.254 Treatment of injured police canines.—

(1) As used in this section, the term "police canine" means any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; the enforcement of laws; the investigation of

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

fires; or the apprehension of offenders.

(2) A licensee with a valid permit for the transport vehicle may transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency department, or similar facility if there is no individual requiring medical attention or transport at that time.

(3) Notwithstanding s. 474.213, a paramedic or an emergency medical technician may provide emergency medical care to a police canine injured in the line of duty while at the scene of the emergency or while the police canine is being transported to a veterinary clinic, hospital emergency department, or similar facility. A paramedic or an emergency medical technician who acts in good faith to provide emergency medical care to an injured police canine is immune from criminal or civil liability.

Section 2. Subsection (10) is added to section 474.203, Florida Statutes, to read:

474.203 Exemptions.—This chapter does not apply to:

(10) A paramedic or an emergency medical technician providing emergency medical care to a police canine injured in the line of duty as authorized under s. 401.254.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the

laws of this state to prescribe drugs or medicinal supplies.

Section 3. This act shall take effect July 1, 2021.

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

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	_____

Committee/Subcommittee hearing bill: Professions & Public Health Subcommittee

Representative Killebrew offered the following:

Amendment

Remove lines 27-40 and insert:

(2) A licensee with a valid permit for the transport vehicle may transport a police canine injured in the line of duty to a veterinary clinic or similar facility if there is no individual requiring medical attention or transport at that time.

(3) Notwithstanding s. 474.213, a paramedic or an emergency medical technician may provide emergency medical care to a police canine injured in the line of duty while at the scene of the emergency or while the police canine is being transported to a veterinary clinic or similar facility. A

paramedic or an emergency medical technician who acts in good faith to provide emergency medical care to an injured police canine is immune from criminal or civil liability.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1097 Health Care Licensure Requirements
SPONSOR(S): Learned
TIED BILLS: **IDEN./SIM. BILLS:** SB 780

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

SUMMARY ANALYSIS

Florida is home to one of the largest veteran populations in the United States. The United States Veterans Affairs (VA) provides health care services to veterans through a large health care system of hospitals and clinics throughout the state. To work at a VA health care facility, a health care practitioner must hold an active license to practice his or her healthcare profession from any state in the nation. However, if a VA health care practitioner wants to provide health care services to a veteran in a setting outside of a VA health care facility in this state, he or she must hold the appropriate Florida health care practitioner license.

HB 1097 requires the Department of Health (DOH) to exempt certain VA physicians from licensure requirements. To qualify for the exemption, a VA physician must submit to the DOH:

- Proof that he or she holds an active, unencumbered license to practice medicine from another state or territory of the United States;
- Proof of current employment with the VA; and
- An attestation that he or she will only provide medical services to veterans in Florida-licensed hospitals and that such services are pursuant to his or her employment with the VA.

The DOH must notify the physician within 15 business of receipt of the documentation that the physician is exempt from Florida licensure requirements.

The bill has an indeterminate, insignificant, negative fiscal impact on the DOH, which current resources are adequate to absorb.

The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Physician Licensure in Florida

Allopathic Physicians

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction with the Department of Health (DOH). The chapter imposes requirements for licensure examination and licensure by endorsement.

An individual seeking to be licensed by examination as an allopathic physician must, among other things:[1]

- Complete two years of preprofessional postsecondary education, which includes, at a minimum, anatomy, biology, and chemistry courses prior to entering medical school;
- Not have committed an act or offense that would constitute a basis for disciplining a physician under Florida law;
- Meet one of the following medical education and postgraduate training requirements:
  - Be a graduate of an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and have completed at least one year of approved residency training;
  - Be a graduate of from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and have completed at least one year of approved residency training; or
  - Be a graduate of an allopathic foreign medical school that has not been certified pursuant to statute; have an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),[2] pass the commission's examination; and complete an approved residency or fellowship of at least two years in one specialty area;
- Obtain a passing score on:
  - The United States Medical Licensing Examination (USMLE);
  - A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
  - The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years; and
- Successfully complete a background screening.

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.[3] The applicant must meet the same requirements for licensure by examination. To qualify for licensure by endorsement, the applicant must also submit evidence of the licensed active practice of medicine in another jurisdiction for at least two of the preceding four years, or evidence of successful completion of either a board-approved postgraduate training program within two years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

[1] S. 458.311(1), F.S.

[2] A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received a bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements of the foreign medical school, has completed an academic year of supervised clinical training and upon completion has passed part II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. S. 458.311(3), F.S.

[3] S. 458.313, F.S.

If the allopathic board determines that an applicant has failed to meet the requirements for licensure by endorsement, it may:[4]

- Refuse to certify the application for licensure to the DOH;
- Certify the application for licensure to the DOH with restrictions on the scope of practice of the licensee; or
- Certify the application for licensure to the DOH, with placement of the physician on probation for a period of time and subject to such conditions as the allopathic board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

Osteopathic Physicians

Chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board) in conjunction with the DOH. The chapter imposes requirements for licensure.

An individual seeking to be licensed as an osteopathic physician must, among other things:[5]

- Have completed at least three years of preprofessional postsecondary education;
- Have not committed an act that would constitute a basis for disciplining a physician under Florida law, unless the osteopathic board determines that such act does not adversely affect the applicant's ability and fitness to practice osteopathic medicine.
- Graduate from a medical college recognized and approved by the American Osteopathic Association;
- Successfully complete a residency or internship of at least 12 months in a program accredited by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education;
- Obtain a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure;[6] and
- Successfully complete a background screening.

If an applicant for a license to practice osteopathic medicine is licensed in another state, the applicant must have actively practiced osteopathic medicine within the two years prior to applying for licensure in this state. If it has been more than two years since the applicant actively practiced osteopathic medicine, the osteopathic board may:[7]

- Deny the application;
- Issue a license with reasonable restrictions or conditions, which may include, but is not limited to, a requirement that the applicant practice under the supervision of a physician approved by the osteopathic board; or
- Issue a license upon receipt of documentation confirming the applicant has met any reasonable conditions of the osteopathic board, which may include, but is not limited to, completing continuing education or undergoing an assessment of skills and training.

Unlicensed Practice of a Health Care Profession

An individual must meet minimum education and training requirements to become licensed and practice a health care profession.[8] Licensure is available by examination or, in many instances, by endorsement

[4] S. 458.313(7), F.S.
[5] S. 459.0055(1), F.S.
[6] However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.
[7] S. 459.0055(2), F.S.
[8] S. 456.065(1), F.S.

if the practitioner is licensed in another jurisdiction. Florida law prohibits an individual from practicing a regulated health care profession without a license.

An unlicensed individual providing healthcare services is subject to administrative and criminal penalties. The DOH may issue a cease and desist letter to such a person and impose, by citation, an administrative penalty of up to $5,000 per offense.[9] The DOH may also seek a civil penalty of up to $5,000 for each offense through the circuit court in addition to, or in lieu of, the administrative penalty.[10]

An individual practicing, attempting to practice, or offering to practice a health care profession without an active, valid Florida license is subject to criminal penalties:[11]

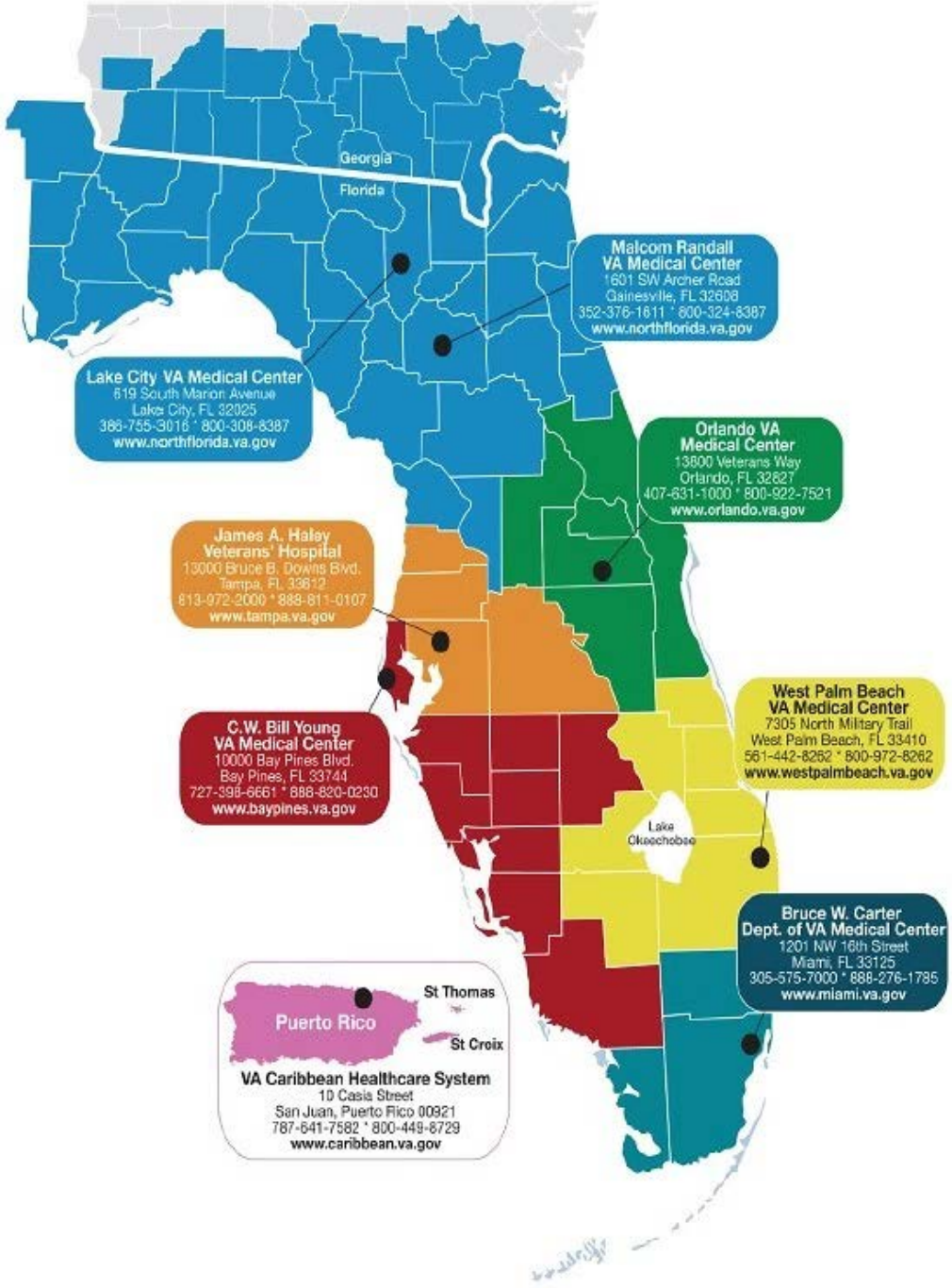
- A first degree misdemeanor punishable by up to one year imprisonment and a fine of up to $1,000 if the license has been inactive or delinquent for any period of time up to 12 months, with a minimum sentence of 30 days imprisonment and a $500 fine.
- A third degree felony punishable by up to five years imprisonment and a fine of up to $5,000 if the license has been inactive or delinquent for a period of time exceeding 12 months, with a minimum sentence of 30 days imprisonment and a $500 fine.
- A third degree felony punishable by up to five years imprisonment and a fine of up to $5,000, with a minimum mandatory sentence of one year imprisonment and a $1,000 fine.
- A second degree felony punishable by up to 15 years imprisonment and a fine of up to $15,000 if such practice results in serious bodily injury, with a minimum mandatory sentence of one year imprisonment and a $1,000 fine.

These penalties are in addition to any administrative and civil penalties incurred by the unlicensed individual.

U.S. Department of Veteran Affairs Practitioners

The Veterans Health Administration within the United States Department of Veterans Affairs (VA) operates the nation's largest integrated health care systems, providing care at 1,255 health care facilities.[12] The U.S. is divided into 18 Veterans Integrated Service Networks, or VISNs.[13] Each service network is comprised of medical centers or hospitals, which oversees the clinics in its region. Florida is a part of the VA Sunshine Health Network (VISN 8), which is comprised of eight medical centers and over 60 community clinics, the largest VISN in the U.S. in terms of patients served.[14] In 2020, the VISN 8 employed 33,457 and treated more than 764,000 veterans.[15]

[9] S. 456.065(2)(b), F.S. Each day that the unlicensed practice continues after issuance of a notice to cease and desist constitutes a separate offense.
[10] S. 456.065(2)(c), F.S.
[11] S. 456.065(2)(d), F.S.
[12] U.S. Department of Veterans Affairs, Veterans Health Administration, *About VHA*, https://www.va.gov/health/aboutvha.asp (last visited Mar. 7, 2021).
[13] *Id*.
[14] U.S. Department of Veterans Affairs, Veterans Health Administration, VA Sunshine Healthcare Network (VISN 8), *2020 Annual Report*, available at https://www.visn8.va.gov/VISN8/news/documents/V-508CLEAN_V082020_AnnualReport.pdf (last visited Mar. 7, 2021).
[15] *Id*. at p. 4.



The health care practitioners practicing in VA facilities in Florida are not required to be licensed in Florida. The VA requires that a health care practitioner have an active, unrestricted license to practice from any state to practice at any one of its facilities nationwide.[16] A VA health care practitioner may treat any veteran in a VA facility located in Florida, regardless of the state of licensure. However, a VA health care practitioner may not provide medical services to one of his or her veteran patients outside the VA facility unless he or she holds a Florida license. If the health care practitioner is not licensed in Florida and provides such services, the health care practitioner could be prosecuted for the unlicensed practice of a health care practitioner.

Effect of Proposed Changes

[16] U.S. Department of Veterans Affairs, *Physicians at VA*, available at https://www.vacareers.va.gov/Careers/Physicians/#live-work-anywhere (last visited Mar. 7, 2021).

HB 1097 requires DOH to exempt a VA physician from Florida licensure requirements if the VA physician:

- Holds an active, unencumbered license to practice medicine in another state, the District of Columbia, or a possession, commonwealth, or territory of the United States;
- Is currently employed with the VA;
- Attests that he or she will only provide medical services to veterans at Florida-licensed hospitals pursuant to his or her employment with the VA.

DOH must notify the physician that he or she is exempt from licensure within 15 business days of receiving documentation that a VA physician meets the requirements for an exemption. An exempt physician remains subject to prosecution for the unlicensed practice of a health care profession if the physician treats a patient who is not a veteran.

The bill authorizes DOH to adopt rules to implement its provisions.

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.0231, F.S., relating to exemption from health care license requirements for the treatment of veterans.
Section 2: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   DOH may experience a decrease in licensure revenue if a physician who works for the VA and is licensed in another state, the District of Columbia, or a possession, commonwealth, or territory of the United States is exempt from Florida licensure and licensure fees to treat veterans in a licensed hospital. The fiscal impact is indeterminate.

2. Expenditures:

   The DOH will experience an increase in workload associated with reviewing documentation submitted by physicians seeking exemption from licensure. The fiscal impact is indeterminate.

   The DOH will incur recurring costs associated with updating the existing data exchange services with its vendor to support printing and mailing approval notification to physicians approved for exemption, which current resources are anticipated to be adequate to absorb.

   The DOH will incur nonrecurring costs relating to rulemaking and updating the Licensing and Enforcement Information Database System (LEIDS), Online Service Portal (Versa Online), Axiom Pro Document Management System and board websites to implement the bill, which current resources are adequate to absorb.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A physician who works for the VA and is licensed in another state will no longer have to pay the fees associated with obtaining a Florida license to treat Florida veterans in licensed hospitals.

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 provides the DOH sufficient rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to health care licensure requirements; creating s. 456.0231, F.S.; defining the term "physician"; requiring certain physicians to submit specified information to the Department of Health to be exempt from specified licensure requirements; requiring the department to notify such health care practitioners of their exemption within a specified timeframe; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Section 456.0231, Florida Statutes, is created to read:

456.0231 Exemption from health care licensure requirements for the treatment of veterans.—

(1) As used in this section, the term "physician" means a person who holds an active, unencumbered license to practice allopathic medicine or osteopathic medicine issued by another state, the District of Columbia, or a possession, commonwealth, or territory of the United States.

(2) A physician must submit to the department all of the following to be exempt from the licensure requirements of chapters 458 and 459:

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

(a) Proof that he or she holds an active, unencumbered license to practice allopathic medicine or osteopathic medicine issued by another state, the District of Columbia, or a possession, commonwealth, or territory of the United States.

(b) Proof of current employment with the United States Department of Veterans Affairs.

(c) An attestation that he or she will only provide medical services:

1. To veterans.

2. Pursuant to his or her employment with the United States Department of Veterans Affairs.

3. In hospitals licensed under chapter 395.

(3) The department shall notify the physician within 15 business days after receipt of the documentation required by subsection (2) that the physician is exempt from the licensure requirements of chapters 458 and 459.

(4) The department may adopt rules to administer this section.

Section 2. This act shall take effect July 1, 2021.

HB 6095

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6095 Scheduling of Drug Products Containing Cannabidiol
SPONSOR(S): Fischer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee		Morris	McElroy
2) Criminal Justice & Public Safety Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Federal and state law both classify controlled substances into five schedules. The scheduling determination for a controlled substance is based on a substance's potential for abuse, accepted medical use, and potential for addiction. The classifications range from a Schedule I substance, which has a high potential for abuse, with no accepted medical use, and high potential for addiction; to a Schedule V substance, which has a low potential for abuse, an accepted medical use, and a mild potential for addiction. Cannabis and compounds derived from cannabis are listed in Schedule I of both federal and Florida law.

Epidiolex is a prescription cannabidiol, a non-psychoactive compound derived from the cannabis plant, which is used to treat seizures associated with Lennox-Gastaut syndrome or Dravet syndrome. On June 25, 2018, the U.S. Food and Drug Administration approved Epidiolex for use by patients two years of age or older. The federal Drug Enforcement Administration (DEA) rescheduled Epidiolex in Schedule V of the federal Controlled Substances Act effective September 27, 2018. On October 31, 2018, the Florida Attorney General rescheduled Epidiolex as a Schedule V controlled substance under an emergency rule. On April 6, 2020 the manufacturer of Epidiolex, announced it had received notification from the DEA confirming that Epidiolex is no longer subject to the federal Controlled Substances Act.

The bill repeals Epidiolex as a Schedule V controlled substance, mirroring federal law, and makes conforming changes.

The bill does not have a fiscal impact on state or local governments.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Law

Controlled Substances

Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, classifies controlled substances into five categories, called schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the "potential for abuse"[1] of the substance and whether there is a currently accepted medical use for the substance.[2]

The controlled substance schedules are as follows:

- Schedule I substances have a high potential for abuse and currently have no accepted medical use in the United States, including substances such as cannabis and heroin.[3]
- Schedule II substances have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States, including substances such as raw opium, fentanyl, and codeine.[4]
- Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States, including substances such as stimulants and anabolic steroids.[5]
- Schedule IV substances have a low potential for abuse relative to substances in Schedule III and have a currently accepted medical use in the United States, including substances such as benzodiazepines and barbiturates.[6]
- Schedule V substances have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States, including substances such as mixtures that contain small quantities of opiates, narcotics, or stimulants.[7]

For each controlled substance schedule I-V dispensed to a patient in this state, the dispenser must report by the close of the next business day to E-FORCSE, Florida's prescription drug monitoring program.[8]

Attorney General

The Legislature delegated to the Florida Attorney General the authority to adopt rules rescheduling or deleting controlled substances from a schedule if reduced control of a substance is in the best interest of the public.[9] To determine whether rescheduling a controlled substance is in the public interest, the Attorney General must consider: [10]

[1] S. 893.035(3)(a), F.S., defines "potential for abuse" to mean that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: 1) used in amounts that create a hazard to the user's health or safety of the community; 2) diverted from legal channels and distributed through illegal channels; or 3) taken on the user's own initiative rather than on the basis of professional medical advice.
[2] *See* s. 893.03, F.S.
[3] S. 893.03(1), F.S.
[4] S. 893.03(2), F.S.
[5] S. 893.03(3), F.S.
[6] S. 893.03(4), F.S.
[7] S. 893.03(5), F.S.
[8] S. 893.055, F.S. A dispenser means a pharmacy, a dispensing pharmacist, or a dispensing health care practitioner.
[9] S. 893.0355, F.S.
[10] S. 893.0355(2)(a)–(h), F.S.

- Whether the controlled substance has been rescheduled under federal law;
- The substance's potential for abuse;
- Scientific evidence of the substance's pharmacological effect;
- The state of current scientific knowledge regarding the substance;
- The substance's history and current pattern of abuse;
- The scope, duration, and significance of abuse;
- The public health risk; and
- The substance's psychic or psychological dependency.

Federal Law

The Federal Controlled Substances Act[11] also classifies controlled substances into schedules based on the potential for abuse and whether there is a currently accepted medical use for the substance. The Drug Enforcement Administration (DEA) is required to consider the following when determining where to schedule a substance:[12]

- The substance's actual or relative potential for abuse;
- Scientific evidence of the substance's pharmacological effect, if known;
- The state of current scientific knowledge regarding the substance;
- The substance's history and current pattern of abuse;
- The scope, duration, and significance of abuse;
- What, if any, risk there is to public health;
- The substance's psychic or physiological dependence liability; and
- Whether the substance is an immediate precursor of a substance already controlled.

Epidiolex

Epidiolex is a prescription cannabidiol, a non-psychoactive compound derived from the cannabis plant, which is used to treat seizures associated with Lennox-Gastaut syndrome or Dravet syndrome.[13] On June 25, 2018, the U.S. Food and Drug Administration (FDA) approved Epidiolex for use in patients two years of age or older.[14] The DEA rescheduled Epidiolex in schedule V of the federal Controlled Substances Act effective September 27, 2018.[15]

Because Epidiolex was not scheduled under Florida law, there was concern the substance would be treated in the same manner as cannabis, which is classified as a Schedule I substance. In response, on October 31, 2018, the Florida Attorney General filed an emergency rule with the Secretary of State rescheduling Epidiolex as a schedule V controlled substance. As of that date, there were approximately 64 patients in Florida taking Epidiolex pursuant to clinical drug trial programs, which were nearing an end.[16] A delay in rescheduling Epidiolex would likely have disrupted the supply of the drug to Florida patients.[17] The emergency rule will remain in effect until the effective date of legislation that provides a different schedule for the substance.[18]

[11] 21 U.S.C. § 812.
[12] 21 U.S.C. § 811(c).
[13] Greenwich Biosciences, *The Epidiolex Story*, https://www.epidiolex.com/about-epidiolex/story (last visited March 10, 2021).
[14] U.S. Food and Drug Administration, *FDA approves first drug comprised of an active ingredient derived from marijuana to treat rare, severe forms of epilepsy,* https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm611046.htm (last visited March 10, 2021).
[15] United State Drug Enforcement Administration, *FDA-approved drug Epidiolex placed in schedule V of Controlled Substance Act*, https://www.dea.gov/press-releases/2018/09/27/fda-approved-drug-epidiolex-placed-schedule-v-controlled-substance-act (last visited March 10, 2021).
[16] Office of the Attorney General, Findings of the Attorney General in Support of Emergency Rule 2ER18-1, F.A.C. (Oct. 31, 2018).
[17] *Id.*
[18] S. 893.0355(6), F.S.

On April 6, 2020, Greenwich Biosciences, the manufacturer of Epidiolex, announced it had received notification from the DEA confirming that Epidiolex is no longer subject to the federal Controlled Substances Act, effective immediately.[19]

Effect of the Bill

HB 6095 repeals Epidiolex as a Schedule V controlled substance, mirroring federal law. Descheduling enables practitioners to prescribe Epidiolex free of schedule V reporting requirements.

The bill makes conforming changes.

B. SECTION DIRECTORY:

Section 1 Amends s. 893.03, F.S., relating to standards and schedules.
Section 2 Amends s. 893.02, F.S., relating to definitions.
Section 3 Provides the bill shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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.

[19] GW Pharmaceuticals, GW Pharmaceuticals plc and Its U.S. Subsidiary Greenwich Biosciences, Inc. Announce That EPIDIOLEX® (cannabidiol) Oral Solution Has Been Descheduled And Is No Longer A Controlled Substance, https://www.gwpharm.com/ir/press-releases/gw-pharmaceuticals-plc-and-its-us-subsidiary-greenwich-biosciences-inc-announce (last visited March 10, 2021).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is not required to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to scheduling of drug products containing cannabidiol; amending s. 893.03, F.S.; removing provisions concerning the scheduling of certain drug products containing cannabidiol; amending s. 893.02, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (d) of subsection (5) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(5) SCHEDULE V.—A substance, compound, mixture, or

preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

~~(d) A drug product in finished dosage formulation that has been approved by the United States Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.~~

Section 2. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986. The term does not

include hemp as defined in s. 581.217 or industrial hemp as defined in s. 1004.4473. ~~The term does not include a drug product described in s. 893.03(5)(d).~~

Section 3. This act shall take effect upon becoming a law.

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

PCS for HB 1063

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1063 Administration of Vaccines
SPONSOR(S): Professions & Public Health Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Professions & Public Health Subcommittee		Morris	McElroy

SUMMARY ANALYSIS

Current law authorizes pharmacists and registered interns who meet certain educational requirements to administer vaccines to adults within an established protocol with a supervising physician. A pharmacist may administer:

- Immunizations or vaccines listed on the U.S. Centers for Disease Control and Prevention (CDC) Adult Immunization Schedule as of February 1, 2015;
- Vaccines recommended by the CDC for international travel as of July 1, 2015;
- Immunizations or vaccines approved by the Board of Pharmacy in rule; and
- Immunizations or vaccines approved by the Board of Pharmacy in response to a state of emergency declared by the Governor.

PCS/HB 1063 authorizes qualified Florida-licensed pharmacists or registered pharmacy interns to administer any CDC-recommended vaccine or vaccine licensed for use in the United States by the U.S. Food and Drug Administration (FDA) to an adult. The PCS allows the Board of Pharmacy to authorize by rule additional immunizations or vaccines, as they are recommended by the CDC or licensed by the FDA, that a qualified pharmacist or registered pharmacy intern may administer. The PCS also authorizes pharmacists to provide influenza vaccines to individuals age 7 and older.

The PCS also repeals the specific statutory limitation to the 2015 CDC-recommended vaccines.

The PCS has an insignificant, negative fiscal impact on the Department of Health, which can be absorbed within existing resources. The PCS has no fiscal impact on local governments.

The PCS provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vaccinations

CDC Immunizations Recommendations

The Advisory Committee on Immunization Practices (ACIP) is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.[1] The ACIP works with professional organizations, such as the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, and the American College of Physicians to develop annual childhood and adult immunization schedules.[2] The Centers for Disease Control and Prevention (CDC) reviews the ACIP's recommendations; and once approved, they are published as the CDC's official recommendations for immunizations of the U.S. population.[3] The current recommended immunization schedule for those ages 18 and under includes:[4]

- Hepatitis B
- Diphtheria, tetanus, & acellular pertussis
- Pneumococcal conjugate
- Influenza
- Varicella
- Meningococcal
- Meningococcal B
- Tetanus, diphtheria, and acellular pertussis
- Rotavirus
- Haemophilus influenza type b
- Inactivated poliovirus
- Measles, mumps, rubella (MMR)
- Hepatitis A
- Human papillomavirus
- Pneumococcal polysaccharide

The current recommended immunization schedule for adults includes:[5]

- Influenza (annually)
- Measles, mumps, rubella (if born in 1957 or later)
- Zoster
- Pneumococcal polysaccharide
- Haemophilus influenza type b
- Hepatitis B
- Meningococcal B
- Varicella (if born in 1980 or later)
- Tetanus, diphtheria, pertussis (booster every 10 years)
- Human papillomavirus
- Pneumococcal conjugate
- Hepatitis A
- Meningococcal A, C, W, Y

New vaccines are considered for addition to the schedule after licensure by the United States Food and Drug Administration.[6] Not all newly licensed vaccines are added to the schedule. Some licensed vaccines are only recommended for people who are traveling to areas where other vaccine preventable

[1] Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *General Committee-Related Information*, available at https://www.cdc.gov/vaccines/acip/committee/index.html (last visited March 8, 2021).
[2] Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *ACIP Recommendations*, available at https://www.cdc.gov/vaccines/acip/recommendations.html (last visited March 8, 2021).
[3] Id.
[4] Centers for Disease Control and Prevention, *Recommended Child and Adolescent Immunization Schedule for Ages 18 Years and Younger, United States, 2021*, available at https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html (last visited March 8, 2021). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put these individuals at higher risk.
[5] Centers for Disease Control and Prevention, *Recommended Adult Immunization Schedule for Ages 19 Years or Older, United States, 2021*, available at https://www.cdc.gov/vaccines/schedules/hcp/imz/adult.html (last visited March 8, 2021). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put these individuals at higher risk.
[6] College of Physicians of Philadelphia, *The History of Vaccines: The Development of the Immunization Schedule,* available at http://www.historyofvaccines.org/content/articles/development-immunization-schedule (last visited March 8, 2021).

diseases occur, such as yellow fever, cholera, dengue, Japanese encephalitis, plague, rabies, smallpox, and typhoid.[7]

CDC Health Information for International Travel

CDC's Health Information for International Travel, commonly called the Yellow Book (Book), is published biannually by the CDC as a reference for those who advise international travelers about health risks.[8] The Book includes the CDC's most current travel health guidelines, including pre-travel vaccine recommendations and destination-specific health advice. The Book is authored by subject-matter experts both within and outside the CDC and the guidelines in the Book are evidence-based and supported by best practices.[9]

Vaccinations are recommended by the CDC to protect international travelers from illness and prevent the importation of infectious diseases across international borders. The Book recommends that persons traveling internationally should be up to date on all CDC-recommended vaccines.[10] Additionally, the Book may recommend additional vaccinations based on traveler's destination and other factors. Examples of additional vaccines required for travelers based on the country of entry is yellow fever, meningococcal, and polio.[11] An example of a vaccine the CDC recommends travelers obtain to protect their health, even if they aren't required for entry into the country, is the typhoid vaccine.[12]

Practice of Pharmacy

Licensure

Pharmacy is the third largest health profession behind nursing and medicine.[13] The Board of Pharmacy (Board), in conjunction with the Department of Health (DOH), regulates the practice of pharmacists pursuant to ch. 465, F.S.[14] To be licensed as a pharmacist, a person must:[15]

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;[16]
- Have completed a Board-approved internship; and
- Successfully complete the Board-approved examination.

A pharmacist must complete at least 30 hours of Board-approved continuing education during each biennial renewal period.[17] Pharmacists who are certified to administer vaccines or epinephrine autoinjections must complete a 3-hour continuing education course on the safe and effective administration of vaccines and epinephrine injections as a part of the biennial licensure renewal.[18]

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[7] Id. For a complete list of FDA-licensed vaccines, *see* U.S. Food & Drug Administration, *Vaccines Licensed for Use in the United States*, (last rev. Jan. 16, 2020), available at https://www.fda.gov/vaccines-blood-biologics/vaccines/vaccines-licensed-use-united-states (last visited February 4, 2020).
[8] Centers for Disease Control and Prevention. *CDC Yellow Book 2020: Health Information for International Travel*, available at https://wwwnc.cdc.gov/travel/page/yellowbook-home (last visited March 8, 2021).
[9] Id.
[10] Id.
[11] Centers for Disease Control and Prevention, *Travelers' Health Most Frequently Asked Questions,* available at https://wwwnc.cdc.gov/travel/page/faq (last visited March 8, 2021).
[12] Id.
[13] American Association of Colleges of Pharmacy, *About AACP*, available at https://www.aacp.org/about-aacp (last visited March 8, 2021).
[14] Sections 465.004 and 465.005, F.S.
[15] Section 465.007, F.S. DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.
[16] If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH-licensed pharmacist
[17] Section 465.009, F.S.
[18] Section 465.009(6), F.S.

Pharmacists who administer long-acting antipsychotic medications must complete an approved 8-hour continuing education course as a part of the continuing education for biennial licensure renewal.[19]

Scope of Practice

In Florida, the practice of the profession of pharmacy includes:[20]

- Compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of a medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or other persons specifically authorized by the patient, regarding the drug therapy;
- Transmitting information from prescribers to their patients;
- Administering vaccines to adults;[21]
- Administering epinephrine injections;[22] and
- Administering antipsychotic medications by injection.[23]

Pharmacy Interns

To become a pharmacy intern, a person must be certified by the Board as enrolled in an intern program at an accredited school or college of pharmacy or as a graduate of an accredited school or college of pharmacy and not yet licensed as a pharmacist in Florida.[24] The Board's rules outline the registration process for pharmacy interns and the internship program requirements for U.S. pharmacy students or graduates and foreign pharmacy graduates.[25]

A pharmacist is responsible for any delegated act performed by a registered pharmacy intern employed or supervised by the pharmacist.[26]

Pharmacist Vaccine Administration

A pharmacist, or registered pharmacy intern under the supervision of a certified pharmacist, may administer immunizations and vaccines to adults within an established protocol under a licensed supervising physician.[27] The protocol between the pharmacist and the supervising physician dictates which types of patients to whom the pharmacist may administer allowable vaccines.[28] The terms, scope, and conditions set forth in the protocol must be appropriate to the pharmacist's training and certification. A supervising physician must review the administration of vaccines by the pharmacist.[29]

To be certified to administer vaccines, a pharmacist or registered pharmacy intern must successfully complete a Board-approved vaccine administration certification program. The certification program requires a pharmacist or registered intern to complete 20 hours of Board-approved continuing education that addresses:[30]

- Mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;

[19] Section 465.1893, F.S.
[20] Section 465.003(13), F.S.
[21] *See* s. 465.189, F.S.
[22] Id.
[23] Section 465.1893, F.S.
[24] Section 465.013, F.S.
[25] Rule 64B16-26.2032, F.A.C. (U.S. pharmacy students/graduates); Rule 64B16-26.2033, F.A.C. (foreign pharmacy graduates).
[26] Rule 64B16-27.430, F.A.C.
[27] Section 468.189(1), F.S.
[28] Section 465.189(7), F.S.
[29] Id.
[30] Rule 64B16-26.1031, F.A.C.

- Immunization schedules;
- Immunization screening questions, provision of risk/benefit information, informed consent, recordkeeping, and electronic reporting into the statewide immunization registry maintained by DOH;
- Vaccine storage and handling;
- Bio-hazardous waste disposal and sterile technique;
- Entering, negotiating, and performing pursuant to physician oversight protocols;
- Community immunization resources and programs;
- Identifying, managing and responding to adverse incidents including but not limited to potential allergic reactions associated with vaccine administration;
- Procedures and policies for reporting adverse incidents to the Vaccine Adverse Event Reporting System;
- Reimbursement procedures and vaccine coverage by federal, state, and local governmental jurisdictions and private third party payers;
- Administration techniques;
- Administration of epinephrine using an autoinjector delivery system;
- The February 1, 2015, CDC Recommended Adult Immunization Schedule;
- The immunizations or vaccines recommended for international travel as of July 1, 2015, found in the CDC Health Information for International Travel (2014 Edition);
- State of emergency administration of immunizations or vaccines;
- Review of the current law permitting a pharmacist to administer vaccinations and epinephrine; and
- CPR training.

A pharmacist must also pass an examination and demonstrate vaccine administration technique.[31] Pharmacists who are certified to administer vaccines must maintain at least $200,000 of professional liability insurance.[32] A pharmacist is permitted to administer epinephrine to treat any allergic reaction resulting from a vaccine.

Current law restricts the vaccines a pharmacist may administer to adults to those vaccines listed in the February 1, 2015, CDC Recommended Adult Immunization Schedule, which is the same as the 2021 list of recommended vaccines (see pg. 3), except that the CDC has added the Meningococcal B vaccine to the list.[33]

The Board may authorize, by rule, additional vaccines a pharmacist may administer.[34] The Board may authorize pharmacists to administer vaccines in response to a declared state of emergency.[35] There are 14,579 Florida-licensed pharmacists and 3,579 pharmacy interns who are certified to administer vaccines.[36]

Pharmacist Vaccination and Age Restrictions

In August of 2020, the U.S. Department of Health and Human Services amended the Declaration under the Public Readiness and Emergency Preparedness Act to authorize pharmacists and registered or licensed pharmacy interns acting under the supervision of a pharmacist to administer vaccines to individuals aged three to 18 years.[37]

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[31] Id.
[32] Section 465.189(3), F.S.
[33] Centers for Disease Control and Prevention, *Recommended Adult Immunization Schedule, United States - 2015*, available at https://www.cdc.gov/vaccines/schedules/downloads/past/2015-adult.pdf (last visited March 8, 2021). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put these individuals at higher risk. *See also supra* note 5.
[34] Section 465.189, F.S..
[35] Section 465.189(1)(c), F.S.
[36] E-mail correspondence with DOH, dated March 8, 2021 on file with the Professions and Public Health Subcommittee.
[37] U.S. Department of Health and Human Services, *Third Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19,* https://www.hhs.gov/sites/default/files/third-amendment-declaration.pdf (last visited March 8, 2021).

Currently, all 50 states authorize pharmacists to administer vaccinations; however, that authority may vary by, among other things, the age of the patients that a pharmacist may vaccinate.[38] Four states, including Florida, limit pharmacist vaccinations to adult patients.[39] Twenty six states allow pharmacists to administer vaccines to individuals of any age.[40] The remaining states have minimum age restrictions that range from 12 years to 2 years.[41]

Authority to administer influenza vaccines to minors differ by state. For example, some states, such as Arizona, allow pharmacists to administer influenza vaccines to children age 3 and over, while other states, such as West Virginia, only allow pharmacists to administer influenza vaccines to those age 11 and older. Three states, including Florida, do not authorize pharmacists to administer influenza vaccines to minors, 19 states have age restrictions, and 28 others allow pharmacists to give influenza vaccines to children of any age. Sixteen states require a prescription for an influenza vaccine.[42]

Effect of Proposed Changes

PCS/HB 1063 revises the list of immunizations that qualified pharmacists and registered pharmacy interns can provide to adults. Currently, pharmacists may only administer those vaccines listed in 2015 CDC-recommended immunization for adults and the 2015 CDC-recommended immunizations for international travels. The PCS authorizes pharmacists to administer those vaccines or immunizations listed in the 2021 CDC Recommended Immunization Schedule for adults and the CDC's Health Information for International Travel. Therefore, pharmacists may administer the Meningococcal B vaccine, which is on the current recommended immunization schedule but was not on the 2015 recommended schedule.

The PCS also authorizes a pharmacist to administer any vaccine that has been licensed for use in the United States by the U.S. Food and Drug Administration (FDA) and allows the Board to authorize by rule additional vaccines that may be administered as they are recommended by the CDC or licensed by the FDA. This allows a pharmacist to administer vaccines for yellow fever, cholera, dengue, Japanese encephalitis, plague, rabies, smallpox, and typhoid, which are not in the CDC-recommended schedule but have been approved by the FDA. The PCS expands the authority of qualified pharmacists and pharmacy interns to administer the influenza vaccines to allow them to administer the vaccine to individuals age 7 and older.

The PCS provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 465.189, F.S., relating to administration of vaccines and epinephrine autoinjection.

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[38] Yvette C. Terrie, BSPharm, RPH, *Vaccinations: The Expanding Role of Pharmacists*, PHARMACY TIMES, Jan. 15, 2010, available at https://www.pharmacytimes.com/publications/issue/2010/january2010/featurefocusvaccinations-0110 (last visited March 8, 2021).
[39] National Alliance of State Pharmacy Associations, Pharmacist Administered Vaccines (Sept. 18, 2020), https://naspa.us/wp-content/uploads/2020/08/IZ-Authority-9_2020.pdf (last visited March 8, 2021). The states that limit pharmacist vaccinations to adults are Connecticut, Delaware, Florida, and Vermont.
[40] Id. The twenty six states that allow pharmacists to vaccinate individuals of any age are: Alabama, Alaska, California, Colorado, Georgia, Idaho, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, Nevada, New Mexico, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.
[41] Id. Minimum age limits: Hawaii and West Virginia is 11 years; Illinois is 10 years; Massachusetts, Maryland, Pennsylvania, and Rhode Island is 9 years; Arkansas, Maine, Montana, New Jersey, Ohio, and Wyoming is 7 years; Kansas, Minnesota, and North Carolina is 6 years; North Dakota is 5 years; Arizona is 3 years; and New York is 2 years.
[42] Id at p. 11. The three states that do not allow pharmacists to administer influenza vaccines to minors are Connecticut, Florida, and Vermont. The states with age limits re: Hawaii and West Virginia is 11 years; Illinois is 10 years; Massachusetts, Maryland, Pennsylvania, and Rhode Island is 9 years; Arkansas, Maine, Montana, New Jersey, Ohio, and Wyoming is 7 years; Kansas, Minnesota, and North Carolina is 6 years; North Dakota is 5 years; Arizona is 3 years; and New York is 2 years. The twenty eight states that allow pharmacists to give influenza vaccines to children of any age are: Alabama, Alaska, California, Colorado, Delaware (with an adult dose), Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, Nevada, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. The sixteen states that require a prescription for an influenza vaccine are: California, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Missouri, Oregon, South Carolina, Texas, Virginia, West Virginia, and Wisconsin.

Section 2 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The PCS may have an insignificant, negative fiscal impact on DOH, as the Board of Pharmacy will need to amend its rules.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those between the ages of 7 and 18 may obtain influenza vaccinations from a qualified pharmacist, which may reduce costs associated with travel and physician office visits.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Rule-making authority is not needed to implement the provisions of the PCS.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to administration of vaccines; amending s. 465.189, F.S.; revising the recommended immunizations or vaccines a pharmacist, or a registered intern under certain conditions, may administer; authorizing a certified pharmacist to administer the influenza vaccine to specified individuals; providing an effective date.

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

Section 1. Subsections (2) through (8) of section 465.189, Florida Statutes, are renumbered as sections (3) through (9), respectively, subsection (1) and present subsection (6) are amended, and a new subsection (2) is added to that section, to read:

465.189 Administration of vaccines and epinephrine autoinjection.—

(1) In accordance with guidelines of the Centers for Disease Control and Prevention for each recommended immunization or vaccine, a pharmacist, or a registered intern under the supervision of a pharmacist who is certified under subsection (7) ~~(6)~~, may administer the following vaccines to an adult within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459:

(a) Immunizations or vaccines listed in the ~~Adult Immunization Schedule as of February 1, 2015, by the~~ United States Centers for Disease Control and Prevention's Recommended Immunization Schedule, the United States Centers for Disease Control and Prevention's Health Information for International Travel, or the United States Food and Drug Administration's Vaccines Licensed for Use in the United States. The board may authorize, by rule, additional immunizations or vaccines as they are added to the United States Centers for Disease Control and Prevention's Recommended Immunization Schedule, recommended by the United States Centers for Disease Control and Prevention for international travel, or licensed by the United States Food and Drug Administration's Vaccines Licensed for Use in the United States ~~added to the Adult Immunization Schedule~~.

~~(b) Immunizations or vaccines recommended by the United States Centers for Disease Control and Prevention for international travel as of July 1, 2015. The board may authorize, by rule, additional immunizations or vaccines as they are recommended by the United States Centers for Disease Control and Prevention for international travel.~~

(b) ~~(c)~~ Immunizations or vaccines approved by the board in response to a state of emergency declared by the Governor pursuant to s. 252.36.

A registered intern who administers an immunization or vaccine

under this subsection must be supervised by a certified pharmacist at a ratio of one pharmacist to one registered intern.

(2) A pharmacist who is certified under subsection (7) may administer influenza vaccines to individuals 7 years of age and older within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459.

(7) ~~(6)~~ Any pharmacist or registered intern seeking to administer vaccines ~~to adults~~ under this section must be certified to administer such vaccines pursuant to a certification program approved by the Board of Pharmacy in consultation with the Board of Medicine and the Board of Osteopathic Medicine. The certification program shall, at a minimum, require that the pharmacist attend at least 20 hours of continuing education classes approved by the board and the registered intern complete at least 20 hours of coursework approved by the board. The program shall have a curriculum of instruction concerning the safe and effective administration of such vaccines, including, but not limited to, potential allergic reactions to such vaccines.

Section 2. This act shall take effect July 1, 2021.

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	_____

Committee/Subcommittee hearing bill: Professions & Public Health Subcommittee

Representative Fernandez-Barquin offered the following:

Amendment

Remove lines 26-39 and insert:

(a) Immunizations or vaccines listed in the ~~Adult Immunization Schedule as of February 1, 2015, by the~~ United States Centers for Disease Control and Prevention's Recommended Immunization Schedule, the United States Centers for Disease Control and Prevention's Health Information for International Travel, the United States Food and Drug Administration's Vaccines Licensed for Use in the United States, or vaccines authorized for emergency use by the United States Food and Drug Administration. The board may authorize, by rule, additional immunizations or vaccines as they are added to the United States

Centers for Disease Control and Prevention's Recommended Immunization Schedule, recommended by the United States Centers for Disease Control and Prevention for international travel, licensed by the United States Food and Drug Administration's Vaccines Licensed for Use in the United States, or vaccines authorized for emergency use by the United States Food and Drug Administration ~~added to the Adult Immunization Schedule~~.

PCS for HB 1565

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1565 Department of Health
SPONSOR(S): Professions & Public Health Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Professions & Public Health Subcommittee		Morris	McElroy

SUMMARY ANALYSIS

PCS for HB 1565 makes numerous changes to programs under the Department of Health (DOH) and health care professions regulated by Medical Quality Assurance (MQA) within DOH.

DOH administers the Targeted Outreach for Pregnant Women Act (TOPWA) which supports high risk pregnant women that aim to prevent heath issues for themselves and their newborns. The PCS updates the TOPWA to account for current medication options, information on HIV, and mental health issues that may lead to a pregnancy being high risk.

MQA regulates health care practitioners in this state. MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health facilities and 40 health care professions. Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory authority and licensure authority for MQA. The PCS:

- Updates institutional accreditation references for chiropractic medicine, clinical laboratory personnel, and mental clinical social workers and marriage and family therapists;
- Clarifies DOH's ability to prosecute nurses licensed under ch. 464, F.S.;
- Removes obsolete references to DOH issued licensure examinations for clinical social workers and marriage and family therapists;
- Clarifies education, training, and temporary certification requirement for midwives;
- Removes obsolete form and fee requirements for fingerprinting of orthotists and prosthetists;
- Clarifies educational requirements for psychologists applying for licensure by endorsement; and
- Allows DOH to continue to issue licenses to marriage and family therapy graduates until July 1, 2026, while such programs seek accreditation.

The PCS has an insignificant, negative fiscal impact on DOH, which current resources are adequate to absorb. The PCS has no fiscal impact on local governments.

The PCS provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Targeted Outreach for Pregnant Women

Current Situation

The Targeted Outreach for Pregnant Women Act (TOPWA) supports targeted outreach programs that aim to prevent vertical HIV transmission and other health issues by linking high-risk pregnant women with services that can help them have healthier pregnancies and deliveries and can aid them in ensuring their newborn gets a healthy start.[1] In 2019, there were 453 HIV-exposed births in Florida.[2]

TOPWA programs aim to provide outreach and linkage services to pregnant women who may not seek proper prenatal care, who suffer from substance-use disorders, or who are living with HIV or are at increased risk for HIV acquisition.[3] Many of the women targeted by TOPWA programs would not otherwise receive prenatal care or know their HIV status. In 2019, there were seven funded TOPWA programs in Florida.[4] TOPWA programs provided services to 7,703 women from January 2016 to July 2020. Black women represented 48 percent of enrollees, Hispanic women represented 39 percent, and white women represented 10 percent.[5] Women living with HIV made up just under 10 percent of TOPW enrollments.[6]

If a pregnant woman tests positive for HIV, medical interventions, like antiretroviral (ARV) medication and delivery by caesarian section, can greatly reduce her risk of transmitting the virus to her baby during childbirth.[7] Prevention methods, like avoiding breastfeeding, can reduce her risk of transmitting the virus to her child post childbirth. Providing ARV medication to the newborn also decreases the chances of seroconversion in the event of an HIV-exposed birth.[8] DOH has developed a program, Baby Rxpress, which provides a six-week course of ARV medication to HIV-exposed newborns at no cost to the mother.[9] In 2019, this program filled 304 prescriptions to 264 HIV-exposed newborns.[10]

TOPWA programs aim to engage women into care who very likely do not already have knowledge of or access to these interventions. Without these types of interventions, a mother's chances of transmitting HIV to her newborn can be up to 45 percent.[11] With these interventions, the chances of transmission are less than 2 percent.[12]

There were no known perinatal HIV transmissions in 2019; however, DOH does not have a definitive status on roughly 25 percent of the 453 HIV-exposed births.[13]

Effect of Proposed Changes – Targeted Outreach for Pregnant Women

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[1] Department of Health, *Targeted Outreach for Pregnant Women Act,* http://stlucie.floridahealth.gov/programs-and-services/infectious-disease-services/hiv-aids/topwa.html (last visited March 10, 2021).
[2] E-mail correspondence with DOH, dated Jan. 28, 2021 on file with the Professions and Public Health Subcommittee.
[3] Id.
[4] Id.
[5] Id.
[6] Id.
[7] Id.
[8] Id.
[9] Department of Health, *Baby Rxpress,* http://www.floridahealth.gov/diseases-and-conditions/aids/Prevention/_documents/topwa/baby-rxpress-program-description-2018.pdf (last visited March 10, 2021).
[10] *Supra,* note 2.
[11] Id.
[12] Id.
[13] Id.

The PCS adds pregnant women who are suffering from mental health problems to the list of outreach targets. It also includes mental health services as a linkage option.

The PCS revises the duties of DOH's administration of the TOPWA and the information and services DOH provides to the women it serves. The PCS requires DOH to encourage high-risk pregnant women to be tested for other sexually transmitted diseases, in addition to HIV, as specified by rule. The PCS requires DOH to provide pregnant women to have HIV with information on the need for ARV medication for their newborn, their medication options, and how to access medication after hospital discharge. The PCS removes a reference to a specific type of ARV medication DOH may provide information on and incorporates more general information on ARV medications, allowing for additional options. The PCS requires DOH to educate pregnant women who have HIV on the importance or engaging in and continuing HIV care. Lastly, the PCS requires DOH to conduct additional follow up for HIV-exposed newborns to ensure final HIV status is known and necessary linkages to care are made.

Institutional Accreditation

Current Situation

Accreditation is the recognition from an accrediting agency that an institution maintains a certain level of educational standards. Institutional accreditation normally applies to an entire institution and indicates that each entity of a school contributes to the achievement of the school's objectives. This does not necessarily mean that all parts of the school have the same quality level of education.[14]

Accrediting agencies issue accreditations.[15] Institutions or programs that request an agency's evaluation and that meet an agency's criteria are then accredited by that agency.[16] Accrediting agencies are organizations made up of educational professionals that:[17]

- Establish the operating standards for educational or professional institutions and programs;
- Determine if a school meets those standards; and
- Publically announce their findings through the issuance of accreditations.

While the United States Department of Education (DOE) does not issue accreditations, it does hold agencies accountable by ensuring that such agencies enforce their accreditation standards effectively. As part of DOE oversight, the Secretary of Education is required by law to publish a list of nationally recognized accrediting agencies that the Secretary determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they accredit.[18]

The DOE issued finalized regulations in the Federal Register in October 2019 relating to institutional accrediting agencies.[19] DOE issued a letter of guidance on February 26, 2020, specifying that final regulations omit references to "regional" and "national" accreditation.[20] The letter specifies, "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, became effective January 1, 2021.

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[14] U.S. Department of Homeland Security – Study in the States, *The Basics of School Accreditation,* https://studyinthestates.dhs.gov/the-basics-of-school-accreditation (last visited March 10, 2021).
[15] Id. *See also* U.S. Department of Education, *Database of Accredited Postsecondary Institutions and Programs,* https://ope.ed.gov/dapip/#/home (last visited March 10, 2021).
[16] U.S. Department of Education, *Database of Accredited Postsecondary Institutions and Programs,* https://ope.ed.gov/dapip/#/home (last visited March 10, 2021).
[17] *Supra,* note 14.
[18] *Supra,* note 16.
[19] 84 C.F.R § 58834 (2020). The new regulations delayed implementation of changes to DOE staff's review of accrediting agency applications for initial or renewal of recognition under 34 C.R.R. § 602.32(d) until January 1, 2021. The new regulations also delayed implementation of changes to DOE staff's process for responding to accrediting agency applications and allowing agency responses within 180 days under 34 C.F.R. § 602.32(h) until July 1, 2021.
[20] U.S. Department of Education, Re: Final Accreditation and State Authorization Regulations (February 26, 2021) https://sacscoc.org/app/uploads/2020/03/State-Authorization-Letter-w-Diane-Signature-2.26.19.pdf (last visited March 10, 2021).

Chiropractic Medicine

Chapter 460, F.S., is the practice act for chiropractic medicine that sets the minimum requirements for safe practice in the state. The Board of Chiropractic Medicine under DOH enforces the practice act, including licensure, monitoring, and ensuring safe practice of chiropractic professionals.[21]

A chiropractic physician is authorized to adjust, manipulate, and treat the human body by manual, mechanical, electrical, or natural methods.[22] Chiropractic physicians may not prescribe or administer legend drugs, perform surgery, or practice obstetrics.[23] Licensure requirements for chiropractic physicians include:[24]

- Graduation from a chiropractic college accredited by the Council on Chiropractic Education;
- Passage of the National Board of Chiropractic Examiners; and
- Passage of a background screening.

Clinical Laboratory Directors

A clinical laboratory is the physical location in which services are performed to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition.[25] Services performed in clinical labs include:

- The examination of fluids or other materials taken from the human body;[26]
- The examination of tissue taken from the human body;[27] and
- The examination of cells from individual tissues or fluid taken from the human body.[28]

Clinical laboratories are regulated under part I of ch. 483, F.S. Clinical laboratories must meet appropriate standards to maintain compliance with federal laws and regulations.[29] Such standards include overall standards of performance that comply with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA), and the federal rules adopted thereunder, for a comprehensive quality assurance program[30] and standards of performance in the examination of specimens for clinical laboratory proficiency testing programs using external quality control procedures.[31]

The Board of Clinical Laboratory Personnel (Board) oversees the licensure and regulation of clinical laboratory personnel, including supervisors, technologists, technicians, directors, and public health laboratory personnel. Generally, licensure requirements for clinical laboratory personnel include passage of an exam designated by the Board, completion of a medical technology training program, and completion of applicable education requirements.[32]

To qualify as a clinical laboratory director, an individual must:[33]

- Have four years of clinical laboratory experience, with two years of experience or national certification in the specialty to be directed
- Be a physician licensed under chs. 458 or 459, F.S.;

[21] Florida Department of Health, *Board of Chiropractic Medicine,* https://floridaschiropracticmedicine.gov/ (last visited March 10, 2021).
[22] Section 460.403(9)(c), F.S.
[23] Id. However, there are limited exceptions for ordering, storing, and administering legend drugs and performing surgeries.
[24] Section 460.406, F.S.
[25] Section 483.041, F.S.
[26] Section 483.041(2)(a), F.S.
[27] Section 483.041(2)(b), F.S.
[28] Section 483.041(2)(c), F.S.
[29] Section 483.021, F.S.
[30] Section 483.051(2)(a), F.S.
[31] Section 483.051(2)(b), F.S.
[32] Section 483.809, F.S. and ch. 64B3-5, F.A.C.
[33] Section 483.824, F.S.

- Hold a doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration; or
- For the subspecialty of oral pathology, be a physician licensed under chs. 458 or 459, F.S., or a dentist licensed under ch. 466, F.S.

Effect of Proposed Changes – Institutional Accreditation

The PCS removes all references to "regional" accreditation replacing such references with "institutional" accreditation for chiropractic medicine and clinical laboratory directors.

Nursing

Current Situation

The Board of Nursing (Board) within DOH, oversees the licensure and regulation of certified nursing assistants, licensed practical nurses, registered nurses, and advanced registered nurse practitioners. The Board has the authority to adopt rules to implement ch. 464, F.S., which regulates the practice of nursing in this state.[34]

Certified Nursing Assistants

Certified Nursing Assistants (CNAs) provide care and assist individuals with tasks relating to the activities of daily living, such as those associated with personal care, nutrition and hydration, maintaining mobility, toileting, safety and cleaning, end-of-life care, cardiopulmonary resuscitation and emergency care.[35] An applicant for certification as a CNA must complete an approved training program, pass a competency examination, and pass a background screening.[36] A CNA who is certified in another state or territory of the U.S. or in the District of Columbia, is listed on that state's CNA registry[37] and has not been found to have committed abuse, neglect, or exploitation in that state, is eligible for certification by endorsement in Florida.[38]

Licensed Practical Nurses

A licensed practical nurse (LPN) is licensed to practice "practical nursing," which is the performance of selected acts, including the administration of treatments and medications, under the direction of a registered nurse, licensed physician, or a licensed dentist, and responsibility for making decisions based on the individual's educational preparation and experience in nursing.[39] To be licensed as an LPN, among other things, an individual must complete a board-approved education program consisting of 50 percent clinical training.[40]

Registered Nurses

A registered nurse (RN) is licensed to practice "professional nursing," which is the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences.[41] To be licensed as an RN, among other things, an individual must complete an associate's degree consisting of 50 percent clinical

[34] Section 464.006, F.S.
[35] Section 464.201(5), F.S.
[36] Section 464.203, F.S. *See also* Department of Health, Board of Nursing, *Certified Nursing Assistant (CNA) by Examination*, available at http://floridasnursing.gov/licensing/certified-nursing-assistant-examination/ (last visited November 25, 2019). An applicant who fails the competency examination 3 times, may not take the exam again until he or she completes an approved training program.
[37] A CNA Registry is a listing of CNAs who received certification and maintain an active certification. (r. 64B9-15.004, F.A.C.)
[38] Section 464.203(1)(c), F.S.
[39] Section 464.003(18), F.S.
[40] Section 464.019(1)(b), F.S., and r. 64B9-2.021, F.A.C.
[41] Section 464.003(19), F.S.

training or a bachelor's degree consisting of 40 percent clinical training from a board-approved education program.[42]

Advanced Practice Registered Nurses

In Florida, an advanced practice registered nurse (APRN)[43] is licensed in one of four roles: a certified nurse practitioner, certified nurse midwife, clinical nurse specialist, or certified registered nurse anesthetist.[44]

The Board provides by rule the eligibility criteria for applicants to be licensed as APRNs and the applicable regulatory standards for APRN nursing practices. Additionally, the Board is responsible for administratively disciplining an APRN 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 APRNs 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.[45] In addition to advanced or specialized nursing practices, APRNs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician's protocol.[46]

To be eligible to be licensed as an APRN, an applicant must be licensed as a registered nurse, have a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.[47] A nursing specialty board must:[48]

- Attest to the competency of nurses in a clinical specialty area;
- Require 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.

Effect of Proposed Changes – Nursing

The PCS clarifies DOH's ability to prosecute licensees under ch. 464, F.S., who had adjudication withheld in their court cases after having entered a plea of nolo contender or guilty to an offense prohibited in ch. 435, F.S., or domestic violence under s. 741.20, F.S.

Midwifery

Current Situation

Chapter 467, F.S., is the practice act for midwifery (Act). DOH licenses and regulates the practice of midwifery in this state. Midwifery is the practice of supervising a normal labor and childbirth, with the informed consent of the parent, advising the parents as to the progress of childbirth, and rendering prenatal and postpartal care.[49] The Council of Licensed Midwifery assists and advises DOH on midwifery, including the development of rules relating to regulatory requirements. These regulations

[42] Section 464.019(1)(b), F.S., and Rule 64B9-2.021, F.A.C.
[43] Section 464.003(3), F.S.
[44] Section 464.012(4), F.S. In 2018, the Florida Legislature changed the occupational title from "Advanced Registered Nurse Practitioner" to "Advanced Practice Registered Nurse," and reclassified a CNS as a type of APRN (*see* ch. 2018-106, Laws of Fla.).
[45] Section 464.012(3)-(4), F.S.
[46] Section 464.003, F.S., and s. 464.012, F.S.
[47] Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.
[48] Rule 64B9-4.002(3), F.A.C.
[49] Section 467.003(8), F.S.

include training requirements, the licensure examination, responsibilities of midwives, emergency care plans, and reports and records to be filed by licensed midwives.[50]

Licensure

An individual must graduate from an approved midwifery program and pass a licensure examination to be eligible for licensure as a midwife.[51] A licensed midwife must submit a general emergency care plan to DOH, which addresses consultation with other health care providers, emergency transfer protocols, and access to neonatal intensive care units and obstetrical units or other patient care areas with his or her application for licensure and licensure renewal.[52] A licensed midwife must also submit proof of professional liability coverage of at least $100,000, with an annual aggregate of at least $300,000.[53]

DOH may issue a license by endorsement for midwifery applicants who:[54]

- Holds a valid certificate or diploma from a foreign institution of medicine or from midwifery program in another state provided the requirements for licensure or certification in another country or another state are equivalent to or exceed that which is required for licensing in Florida; or
- Holds a valid certificate or license to practice midwifery in another state provided the requirements for licensure or certification in another state are equivalent to or exceed that which is required for licensing in Florida; and
- Has completed a 4-month prelicensure course conducted by an approved program; and
- Has successfully passed the licensed midwifery examination.

DOH may also issue a temporary certificate to a midwife who qualifies for licensure by endorsement to practice in areas of critical need.[55] The fee for a temporary certificate is $50 in addition to the fee required for licensure.[56]

Midwifery Students

The Act uses the terms “applicant” and “student midwife” interchangeably. It also sets standards for admission, education, and clinical training in the context of student requirements, which, according to DOH, may cause confusion. As an example, a student must have a high school diploma or the equivalent to enroll in a program, but the statutes do not clearly state that a high school diploma is a requirement for licensure.[57]

The use of the undefined term “midwifery student” has led to unlicensed persons attempting to work with clients and complete clinical requirements without enrolling in or being educated by an approved midwifery program, as well as midwives attempting to serve as preceptors who are not affiliated with an approved midwifery program.[58]

The Act does not include any provisions explicitly allowing a new midwifery program to be provisionally approved nor does it provide clear guidance to schools regarding the circumstances under which DOH may rescind the approval of a program.

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[50] Section 467.004, F.S.
[51] Section 467.011, F.S. Section 467.0125, F.S. DOH no longer administers licensure examinations.
[52] Section 467.017, F.S.
[53] Rule 64B24-7.013, F.A.C. An applicant does not have to submit proof of professional liability insurance if the applicant practices exclusively as an officer, employee, or agent of the federal government, practices only in conjunction with teaching duties at an approved midwifery school that provides such coverage on the applicant’s behalf, or who does not practice midwifery in this state and provides proof of such.
[54] Section 467.0125(1), F.S.
[55] Section 467.0125(2), F.S.
[56] Section 467.0125(2)(f), F.S.
[57] *Supra,* note 2.
[58] Id. In general, health care practitioners do not start seeing clients in a clinical setting until they have completed prerequisite portions of a course of study and are near the end of their educational program.

Effect of Proposed Changes – Midwifery

The PCS makes numerous clarifying changes to the midwifery practice act.

The PCS clarifies that a preceptor may not supervise a midwifery student unless the student has been enrolled in an approved midwifery program. This clarifies that an individual cannot begin their clinical practice before enrolling in an approved midwifery program and will explicitly conform midwifery training with the requirements of other medical professions, with students having to complete the majority of their classroom training before working with patients in a clinical setting.

The PCS clarifies licensing requirements and updates licensing methods. The PCS prohibits endorsement without a license or certification in another state, territory or jurisdiction and creates a pathway to licensure by examination for applicants who have completed education equivalent to or exceeds that which is required for licensing in Florida in a state, territory, or jurisdiction that does not license midwives. These revisions do not change what is actually required to qualify for a midwifery license, but instead clarify licensure requirements allowing applicants to better understand those requirements.[59]

The PCS clarifies education and training requirements for approved midwifery programs. The PCS allows midwifery programs to be provisionally approved for five years. This change conforms to the five-year period that such programs can be provisionally licensed by the U.S. Department of Education's Commission for Independent Education when seeking accreditation status. DOH will be able to give provisional approval to a new program who has meet all requirements except for showing their students have an 80% passage rate on the national exam. Programs provisionally approved will have five years to demonstrate the required exam approval rate after they are preliminary approved. This time period allows completion of the three-year education program for at least one cohort of students, and for those students to take the exam before the Department tries to determine the passing rate.[60]

The PCS clarifies the requirements for temporary certification of a midwife to practice in an area of critical need. The PCS allows a midwife certified to practice in an area of critical need to report a new area of critical need or relinquish the certificate within a specified timeframe following a change in an areas designated status, rather than being immediately subject to disciplinary action, while retaining the DOH's ability to revoke a certificate for non-compliance.[61]

The PCS removes obsolete references to the DOH issued exam for midwifery licensure as DOH no longer administers licensure examinations.

Lastly, the PCS clarifies the circumstances under which DOH may rescind the approval of a midwifery program.

Orthotists and Prosthetists

Current Situation

The Board of Orthotists and Prosthetists oversees the licensure and regulation of orthotists[62] and prosthetists.[63] A person applying for licensure must first apply to DOH to take the appropriate licensure examination. The board may accept the exam results of a national orthotic or prosthetic, standards

[59] Id.
[60] Id.
[61] Id.
[62] An orthotist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services, or provides necessary training to accomplish the fitting of an orthosis or a pedorthic device (s. 468.80(9)-(10), F.S.)
[63] An prosthetist is a health care professional who evaluates, formulates treatment, measures, designs, fabricates, assembles, fits, adjusts, services, or provides necessary training to accomplish the fitting of a prosthesis (s. 468.80(15)-(16), F.S.)

organization in lieu of administering the state exam.[64] The board must verify that an applicant for licensure examination meets the following requirements:[65]

- Has completed the application form and paid all applicable fees;
- Is of good moral character;
- Is 18 years of age or older;
- Has completed the appropriate educational preparation, including practical training requirements; and
- Has successfully completed an appropriate clinical internship in the professional area for which the license is sought.

In addition to the requirements listed above, an applicant must meet the following requirements for each license sought:[66]

- A Bachelor of Science degree in Orthotics and Prosthetics from a regionally accredited college or university from an accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree with a certificate in orthotics or prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent;
- An internship of one year of qualified experience or a residency program recognized by the board;
- Completion of the mandatory classes;[67] and
- Passage of the state orthotic examination or board-approved orthotic examination if applying for an orthotist license, or the state prosthetic examination or board-approved examination if applying for a prosthetist license.

Background Screening

Chapter 435, F.S., establishes standard procedures and requirements for criminal history background screening of prospective employees. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,[68] and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.[69]

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.[70] Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.[71]

For both level 1 and 2 screenings, the employer must submit the information necessary for screening to FDLE within five working days after receiving it.[72] Additionally, for both levels of screening, FDLE must

[64] Section 468.803(4), F.S. The Board has approved the American Board for Certification in Orthotics, Prosthetics, and Pedorthics (ABC) exam for orthotist and prosthetist applicants (r. 64B14-4.001, F.A.C.)
[65] Section 468.803(2), F.S.
[66] Section 468.803(5), F.S. Licenses must be renewed biennially.
[67] Pursuant to r. 64B14-5.005, F.A.C., mandatory courses include two hours on Florida laws and rules, two hours on the prevention of medical errors, one hour on infection disease control, and a CPR certification course.
[68] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at https://www.nsopw.gov/ (last visited March 10, 2021).
[69] Section 435.04, F.S.
[70] Section 435.05(1)(a), F.S.
[71] Sections 435.03(1) and 435.04(1)(a), F.S.
[72] Section 435.05(1)(b)-(c), F.S.

perform a criminal history record check of its records.[73] For a level 1 screening, this is the only information searched, and once complete, FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.[74] For level 2 screening, FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.[75] As with a level 1 screening, FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information. If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment.

The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.[76]

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, certain offenses under Florida law, or similar law of another jurisdiction.[77]

Health Care Practitioner Background Screening Under Ch. 456, F.S.

Section 456.0135, F.S., requires physicians, physician assistants, chiropractic physicians, podiatric physicians, nurses, certified nursing assistants, pharmacy owners, athletic trainers, massage therapists, and massage establishment owners to undergo a Level 2 background screening as a part of the licensure process. The appropriate regulatory board reviews the background screening results of an applicant or licensee to determine if there is a disqualifying offense. The only automatic disqualifying offenses for licensure are the following offenses under federal law or Florida law, or similar law in another jurisdiction:[78]

- A felony under:
    - Chapter 409, related to social and economic assistance;
    - Chapter 817, relating to fraudulently practices; and
    - Chapter 893, relating to drug abuse prevention and control.
- A felony under 21 U.S.C. ss. 801-970, relating to controlled substances, or 42 U.S.C. ss. 1395-1396, relating to health insurance for the aged and disabled, if the sentence and any subsequent probation ended less than 15 years before the date of application.

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency (in the case of substance abuse treatment, DCF) to exempt applicants from that disqualification under certain circumstances:[79]

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or

[73] Id.
[74] Section 435.05(1)(b), F.S.
[75] Section 435.05(1)(c), F.S.
[76] Section 435.05(1)(d), F.S.
[77] Section 435.04(2), F.S.
[78] Section 456.0635, F.S.
[79] Section 435.07(1), F.S.

- The applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,[80] career offender,[81] or sexual offender (unless not required to register)[82] cannot ever be exempted from disqualification.[83]

Effect of Proposed Changes – Orthotists and Prosthetists

The PCS removes obsolete references to form and fee requirements for background screening of the practice of orthotics, prosthetics, and pedorthics which are no longer required to be collected by DOH.

The PCS removes all references to "regional" accreditation replacing such references with "institutional" accreditation for Orthotists and Prosthetists.

Psychologists

Current Situation

The Board of Psychology oversees the licensure and regulation of psychologists.[84] To receive a license to practice psychology, an individual must:[85]

- Meet one of the following educational requirements:
  - Received a doctoral-level psychological education from an institution that had institutional accreditation from an agency recognized by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada, and had programmatic accreditation from the American Psychological Association;[86] or
  - Received the equivalent of a doctoral-level education from a program at a school or university located outside of the United States, which is officially recognized by the government of the country in which it is located as a program or institution to train students to practice professional psychology.
- Complete 2 years or 4,000 hours of supervised experience;
- Pass the Examination for Professional Practice in Psychology;[87] and
- Pass an examination on Florida laws and rules.

The American Psychological Association (APA) is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation as the national accrediting authority for professional education and training in psychology.[88]

Applicants for licensure by endorsement must:[89]

- Be a diplomate in good standing with the American Board of Professional Psychology;
- Hold a doctoral degree in psychology with at least 10 years of experience as a licensed psychologist in any jurisdiction or territory of the U.S. within the 25 years preceding the date of application.

[80] Section 775.261, F.S.
[81] Section 775.261, F.S.
[82] Section 943.0435, F.S.
[83] Section 435.07(4)(b), F.S.
[84] Section 490.004, F.S.
[85] Section 490.005(1), F.S.
[86] Section 490.003(3), F.S., defines doctoral-level education as a Psy.D, an Ed.D., or a Ph.D in psychology.
[87] Rule 64B19-11.001, F.A.C.
[88] American Psychological Association, *Understanding APA Accreditation*, available at http://www.apa.org/ed/accreditation/about/index.aspx (last visited March 10, 2021).
[89] Section 490.006, F.S.

Effect of Proposed Changes – Psychologists

The PCS allows a psychologist applying by endorsement, who has 10 years licensed experience, to obtain licensure regardless of whether the doctoral program was APA accredited. This will streamline licensure by endorsement while maintaining the needed accreditation and educational standards for licensure by examination.[90]

Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

Current Situation

Licensed Clinical Social Workers

Licensed clinical social work uses scientific and applied knowledge, theories, and methods for the purpose of describing, preventing, evaluating, and treating individual, couple, marital, family, or group behavior, based on the person-in-situation perspective of psychosocial development, normal and abnormal behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, differential assessment, differential planning, and data gathering to prevent and treat undesired behavior and enhance of mental health.[91] An applicant seeking licensure as a clinical social worker must:[92]

- Possess a master's or doctoral degree from an accredited program;
- Have a least two years' experience in clinical social work;
- Pass a theory and practice examination approved by DOH; and
- Demonstrate knowledge of laws and rules governing the practice.

Licensed Clinical Social Workers must pass an examination offered by the American Association of State Social Worker Boards.[93] In 1999, the American Association of State Social Worker Boards changed its name to the Association of Social Work Boards.[94]

Marriage and Family Therapists

Marriage and family therapy incorporates marriage and family therapy, psychotherapy, hypnotherapy, sex therapy, counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients.[95] An applicant seeking licensure as a mental health counselor must:[96]

- Possess a master's degree from an a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs and board-approved graduate courses;[97]
- Complete two years of post-master's supervised experience under the supervision of a licensed marriage and family therapist with five years of experience or the equivalent who is a qualified supervisor as determined by the board;
- Pass a board-approved examination; and

[90] Department of Health, Agency Analysis of 2021 House Bill 1565 (March 12, 2021).
[91] Section 491.003(7), F.S.
[92] Section 491.005(1), F.S.
[93] Id.
[94] Association of Social Work Boards, *History*, available at https://www.aswb.org/about/history/ (last visited March 10, 2021).
[95] Id.
[96] Section 491.005(3), F.S. An individual may qualify for a dual license in marriage and family therapy if he or she passes an examination in marriage and family therapy and has held an active license for at least three years as a psychologist, clinical social worker, mental health counselor, or advanced registered nurse practitioner who is determined by the Board of Nursing to be a specialist in psychiatric mental health (s. 491.0057, F.S.)
[97] Ch. 2020-133, Laws of Fla, required applicants for licensure as a marriage and family therapist to graduate from an accredited program or an accredited Florida university program.

- Demonstrate knowledge of laws and rules governing the practice.

DOH must verify that an applicant's education matches the specified courses and hours as outlined in statute. However, there are organizations that accredit marriage and family therapy education programs, including the Commission on Accreditation for Marriage and Family Therapy Education and the Council for the Accreditation of Counseling and Related Educational Programs that establish the minimum standards to meet the requirements to practice the profession.[98]

Mental Health Counselors

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.[99] To qualify for licensure as a mental health counselor, an individual must:[100]

- Have a master's degree from a mental health counseling program accredited by the Council of the Accreditation of Counseling and Related Educational Programs, or a program related to the practice of mental health counseling that includes coursework and a 700-hour practicum, internship, or fieldwork of which at least 280 hours must be in direct client services;
- Have at least two years of post-master's supervised clinical experience in mental health counseling;
- Pass an examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors; and
- Pass an eight-hour course on Florida laws and rules approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.[101]

After July 1, 2025, applicants for licensure as a mental health counselor must hold a master's degree from a program accredited by the Council for Accreditation of Counseling and Related Education Programs.[102]

Effect of Proposed Changes – Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

The bill removes all references to "regional" accreditation replacing such references with "institutional" accreditation for clinical social workers and marriage and family therapists.

The PCS allows DOH to continue to license marriage and family therapy students or graduates who have graduated from an unaccredited program until July 1, 2026. This will eliminate a barrier to licensure for such students.[103]

The PCS also removes obsolete references to DOH issued licensure examinations.

B. SECTION DIRECTORY:

Section 1 Amends s. 381.0045, F.S., relating to targeted outreach for pregnant women.
Section 2 Amends s. 460.406, F.S., relating to licensure by examination.
Section 3 Amends s. 464.018, F.S., relating to disciplinary actions.

[98] *See* Commission on Accreditation for Marriage and Family Therapy Education, *What Are the Benefits of COAMFTE Accreditation*, available at https://www.coamfte.org/COAMFTE/Accreditation/About_Accreditation.aspx (last visited March 10, 2021), and Council for the Accreditation of Counseling and Related Educational Programs, *About CACREP*, available at https://www.cacrep.org/about-cacrep/ (last visited March 10, 2021).
[99] Sections 491.003(6) and (9), F.S.
[100] Section 491.005(4), F.S.
[101] Section 491.005(4), F.S., and r. 64B4-3.0035, F.A.C.
[102] Ch. 2020-133, Laws of Fla.
[103] *Supra,* note 2.

Section 4 Amends s. 467.003, F.S., relating to definitions.
Section 5 Amends s. 467.009, F.S., relating to midwifery programs; education and training requirements.
Section 6 Amends s. 467.011, F.S., relating to licensure by examination.
Section 7 Amends s. 467.0125, F.S., relating to licensure by endorsement.
Section 8 Amends s. 467.205, F.S., relating to approval of midwifery programs.
Section 9 Amends s. 468.803, F.S., relating to license, registration, and examination requirements.
Section 10 Amends s. 483.824, F.S., relating to qualifications of clinical laboratory director.
Section 11 Amends s. 490.003, F.S., relating to definitions.
Section 12 Amends s. 490.005, F.S., relating to licensure by examination.
Section 13 Amends s. 490.0051, F.S., relating to provisional licensure; requirements.
Section 14 Amends s. 491.005, F.S., relating to licensure by examination.
Section 15 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOH may experience an increase in workload to conduct rulemaking and updating online application websites to implement the provisions of the PCS, the impact of which can be absorbed within current resources.[104]

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 PCS does not appear to affect county or municipal governments.

2. Other:

   None.

[104] *Supra,* note 90.

B. RULE-MAKING AUTHORITY:

DOH has sufficient rulemaking authority to implement the PCS.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Health; amending s. 381.0045, F.S.; revising the purpose of the department's targeted outreach program for certain pregnant women; requiring the department to encourage high-risk pregnant women of unknown status to be tested for sexually transmissible diseases; requiring the department to provide specified information to pregnant women who have human immunodeficiency virus (HIV); requiring the department to link women with mental health services when available; requiring the department to educate pregnant women who have HIV on certain information; requiring the department to provide, for a specified purpose, continued oversight of newborns exposed to HIV; amending s. 460.406, F.S.; revising provisions related to chiropractic physician licensing; amending s. 464.018, F.S.; revising grounds for disciplinary action against licensed nurses; amending s. 467.003, F.S.; revising and defining terms; amending s. 467.009, F.S.; revising provisions related to approved midwifery programs; amending s. 467.011, F.S.; revising provisions relating to licensure of midwives; amending s. 467.0125, F.S.; revising provisions relating to licensure by endorsement of midwives; revising requirements for

temporary certificates to practice midwifery in this state; amending s. 467.205, F.S.; revising provisions relating to approval, continued monitoring, probationary status, provisional approval, and approval rescission of midwifery programs; amending s. 468.803, F.S.; revising provisions related to orthotist and prosthetist registration, examination, and licensing; amending 483.824, F.S.; revising educational requirements for clinical laboratory directors; amending s. 490.003, F.S.; defining the terms "doctoral degree from an American Psychological Association accredited program" and "doctoral degree in psychology"; amending ss. 490.005 and 490.0051, F.S.; revising education requirements for psychologist licensing and provisional licensing, respectively; amending s. 491.005, F.S.; revising licensing requirements for clinical social workers, marriage and family therapists, and mental health counselors; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 381.0045, Florida Statutes, are amended to read:

381.0045 Targeted outreach for pregnant women.—

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

(2) It is the purpose of this section to establish a targeted outreach program for high-risk pregnant women who may not seek proper prenatal care, who suffer from substance abuse or mental health problems, or who have ~~are infected with~~ human immunodeficiency virus (HIV), and to provide these women with links to much needed services and information.

(3) The department shall:

(a) Conduct outreach programs through contracts with, grants to, or other working relationships with persons or entities where the target population is likely to be found.

(b) Provide outreach that is peer-based, culturally sensitive, and performed in a nonjudgmental manner.

(c) Encourage high-risk pregnant women of unknown status to be tested for HIV and other sexually transmissible diseases as specified by department rule.

(d) Educate women not receiving prenatal care as to the benefits of such care.

(e) Provide ~~HIV-infected~~ pregnant women who have HIV with information on the need for antiretroviral medication for their newborn, their medication options, and how they can access the medication after their discharge from the hospital ~~so they can make an informed decision about the use of Zidovudine (AZT)~~.

(f) Link women with substance abuse treatment and mental health services, when available, and act as a liaison with Healthy Start coalitions, children's medical services, Ryan

White-funded providers, and other services of the Department of Health.

(g) Educate pregnant women who have HIV on the importance of engaging in and continuing HIV care.

(h) Provide continued oversight of ~~to HIV-exposed~~ newborns exposed to HIV to determine the newborn's final HIV status and ensure continued linkage to care if the newborn is diagnosed with HIV.

Section 2. Subsection (1) of section 460.406, Florida Statutes, is amended to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician must apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable. There shall also be an examination fee not to exceed $500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted the appropriate fee.

(b) Submitted proof satisfactory to the department that he

or she is not less than 18 years of age.

(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified is ~~shall be~~ eligible to take the examination. An ~~No~~ application for a license to practice chiropractic medicine may not ~~shall~~ be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.

(d)1. For an applicant who has matriculated in a chiropractic college before ~~prior to~~ July 2, 1990, completed at least 2 years of residence college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an institutional accrediting agency recognized and approved by the United States Department of Education. However, before ~~prior to~~ being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 1990, must ~~shall~~ have been granted a bachelor's degree, based upon 4 academic years of

study, by a college or university accredited by an institutional ~~a regional~~ accrediting agency which is a member of the Commission on Recognition of Postsecondary Accreditation.

2. Effective July 1, 2000, completed, before ~~prior to~~ matriculation in a chiropractic college, at least 3 years of residence college work, consisting of a minimum of 90 semester hours leading to a bachelor's degree in a liberal arts college or university accredited by an institutional accrediting agency recognized and approved by the United States Department of Education. However, before ~~prior to~~ being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 2000, must ~~shall~~ have been granted a bachelor's degree from an institution holding accreditation for that degree from an institutional ~~a regional~~ accrediting agency which is recognized by the United States Department of Education. The applicant's chiropractic degree must consist of credits earned in the chiropractic program and may not include academic credit for courses from the bachelor's degree.

(e) Successfully completed the National Board of Chiropractic Examiners certification examination in parts I, II, III, and IV, and the physiotherapy examination of the National Board of Chiropractic Examiners, with a score approved by the board.

(f) Submitted to the department a set of fingerprints on a

form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

The board may require an applicant who graduated from an institution accredited by the Council on Chiropractic Education more than 10 years before the date of application to the board to take the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic, or its equivalent, as determined by the board. The board shall establish by rule a passing score.

Section 3. Paragraph (e) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. 456.072(2) and 464.0095:

(e) Having been found guilty of~~, regardless of adjudication,~~ or entered a plea of nolo contendere or guilty to, regardless of adjudication, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

Section 4. Present subsections (13) and (14) of section

467.003, Florida Statutes, are redesignated as subsections (14) and (15), respectively, a new subsection (13) is added to that section, and subsections (1) and (12) of that section are amended, to read:

467.003 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Approved midwifery program" means ~~a midwifery school or~~ a midwifery training program that ~~which~~ is approved by the department pursuant to s. 467.205.

(12) "Preceptor" means a physician licensed under chapter 458 or chapter 459, a ~~licensed~~ midwife licensed under this chapter, or a certified nurse midwife licensed under chapter 464~~,~~ who has a minimum of 3 years' professional experience~~,~~ and who directs, teaches, supervises, and evaluates the learning experiences of a ~~the~~ student midwife as part of an approved midwifery program.

(13) "Prelicensure course" means a course of study, offered by an approved midwifery program and approved by the department, which an applicant for licensure must complete before a license may be issued and which provides instruction in the laws and rules of this state and demonstrates the student's competency to practice midwifery under this chapter.

Section 5. Section 467.009, Florida Statutes, is amended to read:

467.009 Approved midwifery programs; education and

training requirements.—

(1) The department shall adopt standards for approved midwifery programs which must include, but need not be limited to, standards for all of the following:

(a) ~~. The standards shall encompass~~ Clinical and classroom instruction in all aspects of prenatal, intrapartal, and postpartal care, including all of the following:

1. Obstetrics.~~;~~

2. Neonatal pediatrics.~~;~~

3. Basic sciences.~~;~~

4. Female reproductive anatomy and physiology.~~;~~

5. Behavioral sciences.~~;~~

6. Childbirth education.~~;~~

7. Community care.~~;~~

8. Epidemiology.~~;~~

9. Genetics.~~;~~

10. Embryology.~~;~~

11. Neonatology.~~;~~

12. Applied pharmacology.~~;~~

13. The medical and legal aspects of midwifery.~~;~~

14. Gynecology and women's health.~~;~~

15. Family planning.~~;~~

16. Nutrition during pregnancy and lactation.~~;~~

17. Breastfeeding.~~; and~~

18. Basic nursing skills~~; and any other instruction~~

~~determined by the department and council to be necessary~~.

(b) ~~The standards shall incorporate the~~ Core competencies, incorporating those established by the American College of Nurse Midwives and the Midwives Alliance of North America, including knowledge, skills, and professional behavior in all of the following areas:

1. Primary management, collaborative management, referral, and medical consultation.~~;~~

2. Antepartal, intrapartal, postpartal, and neonatal care.~~;~~

3. Family planning and gynecological care.~~;~~

4. Common complications.~~; and~~

5. Professional responsibilities.

(c) Noncurricular ~~The standards shall include noncurriculum~~ matters under this section, including, but not limited to, staffing and teacher qualifications.

(2) An approved midwifery program must offer ~~shall include~~ a course of study ~~and clinical training~~ for a minimum of 3 years which incorporates all of the standards, curriculum guidelines, and educational objectives provided in this section and the rules adopted hereunder.

(3) An approved midwifery program may reduce ~~If the applicant is a registered nurse or a licensed practical nurse or has previous nursing or midwifery education,~~ the required period of training ~~may be reduced~~ to the extent of the student's

~~applicant's~~ qualifications as a registered nurse or licensed practical nurse or based on prior completion of equivalent nursing or midwifery education, as determined ~~under rules adopted~~ by ~~the~~ department rule~~. In no case shall the training be reduced to a period of less than 2 years~~.

(4)~~(3)~~ An approved midwifery program may accept students who ~~To be accepted into an approved midwifery program, an applicant shall~~ have both:

(a) A high school diploma or its equivalent.

(b) Taken three college-level credits each of math and English or demonstrated competencies in communication and computation.

(5)~~(4)~~ As part of its course of study, an approved midwifery program must require clinical training that includes all of the following:

(a) ~~A student midwife, during training, shall undertake, under the supervision of a preceptor,~~ The care of 50 women in each of the prenatal, intrapartal, and postpartal periods under the supervision of a preceptor.~~, but~~ The same women need not be seen through all three periods.

(b)~~(5)~~ Observation of ~~The student midwife shall observe~~ an additional 25 women in the intrapartal period ~~before qualifying for a license~~.

(6) Clinical ~~The~~ training required under this section must include all of the following:

(a) ~~shall include~~ Training in ~~either~~ hospitals, ~~or~~ alternative birth settings, or both.

(b) A requirement that students demonstrate competency in the assessment of and differentiation~~, with particular emphasis on learning the ability to differentiate~~ between low-risk pregnancies and high-risk pregnancies.

(7) A hospital or birthing center receiving public funds shall be required to provide student midwives access to observe labor, delivery, and postpartal procedures, provided the woman in labor has given informed consent. The Department of Health shall assist in facilitating access to hospital training for approved midwifery programs.

(8)~~(7)~~ The Department of Education shall adopt curricular frameworks for midwifery programs conducted within public educational institutions under ~~pursuant to~~ this section.

~~(8) Nonpublic educational institutions that conduct approved midwifery programs shall be accredited by a member of the Commission on Recognition of Postsecondary Accreditation and shall be licensed by the Commission for Independent Education.~~

Section 6. Section 467.011, Florida Statutes, is amended to read:

467.011 Licensed midwives; qualifications; examination ~~Licensure by examination~~.—

~~(1) The department shall administer an examination to test the proficiency of applicants in the core competencies required~~

~~to practice midwifery as specified in s. 467.009.~~

~~(2) The department shall develop, publish, and make available to interested parties at a reasonable cost a bibliography and guide for the examination.~~

~~(3)~~ The department shall issue a license to practice midwifery to an applicant who meets all of the following criteria:

(1) Demonstrates that he or she has graduated from one of the following:

(a) An approved midwifery program.

(b) A medical or midwifery program offered in another state, jurisdiction, territory, or country whose graduation requirements were equivalent to or exceeded those required by s. 467.009 and the rules adopted thereunder at the time of graduation.

(2) Demonstrates that he or she has ~~and~~ successfully completed a prelicensure course offered by an approved midwifery program. Students graduating from an approved midwifery program may meet this requirement by showing that the content requirements for the prelicensure course were covered as part of their course of study.

(3) Submits an application for licensure on a form approved by the department and pays the appropriate fee.

(4) Demonstrates that he or she has received a passing score on an ~~the~~ examination specified by the department~~, upon~~

~~payment of the required licensure fee~~.

Section 7. Section 467.0125, Florida Statutes, is amended to read:

467.0125 Licensed midwives; qualifications; ~~Licensure by~~ endorsement; temporary certificates.—

(1) The department shall issue a license by endorsement to practice midwifery to an applicant who, upon applying to the department, demonstrates to the department that she or he meets all of the following criteria:

(a)~~1. Holds a valid certificate or diploma from a foreign institution of medicine or midwifery or from a midwifery program offered in another state, bearing the seal of the institution or otherwise authenticated, which renders the individual eligible to practice midwifery in the country or state in which it was issued, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter, and submits therewith a certified translation of the foreign certificate or diploma; or~~

~~2.~~ Holds an active, unencumbered ~~a valid certificate or~~ license to practice midwifery in another state, jurisdiction, or territory ~~issued by that state~~, provided the licensing requirements of that state, jurisdiction, or territory at the time the license was issued were ~~therefor are deemed by the department to be~~ substantially equivalent to~~,~~ or exceeded ~~to~~

~~exceed,~~ those established under this chapter and the rules adopted thereunder ~~under this chapter~~.

(b) Has successfully completed a ~~4-month~~ prelicensure course conducted by an approved midwifery program ~~and has submitted documentation to the department of successful completion~~.

(c) Submits an application for licensure on a form approved by the department and pays the appropriate fee ~~Has successfully passed the licensed midwifery examination~~.

(2) The department may issue a temporary certificate to practice in areas of critical need to an applicant ~~any midwife~~ who is qualifying for a midwifery license ~~licensure by endorsement~~ under subsection (1) who meets all of the following criteria~~, with the following restrictions~~:

(a) Submits an application for a temporary certificate on a form approved by the department and pays the appropriate fee, which may not exceed $50 and is in addition to the fee required for licensure by endorsement under subsection (1);

(b) Specifies on the application that he or she will ~~The Department of Health shall determine the areas of critical need, and the midwife so certified shall~~ practice only in one or more of the following locations:

1. A county health department;

2. A correctional facility;

3. A Department of Veterans' Affairs clinic;

4. A community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Service Act; or

5. Any other agency or institution that is approved by the State Surgeon General and provides health care to meet the needs of an underserved population in this state; and ~~those specific areas,~~

(c) Will practice only under the supervision ~~auspices~~ of a physician licensed under ~~pursuant to~~ chapter 458 or chapter 459, a certified nurse midwife licensed under ~~pursuant to~~ part I of chapter 464, or a midwife licensed under this chapter~~,~~ who has a minimum of 3 years' professional experience.

(3) The department may issue a temporary certificate under this section with the following restrictions:

(a) A requirement that a temporary certificateholder practice only in areas of critical need. The State Surgeon General shall determine the areas of critical need, which ~~Such areas shall~~ include, but are not ~~be~~ limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(b) A requirement that if a temporary certificateholder's practice area ceases to be an area of critical need, within 30 days after such change the certificateholder must either:

1. Report a new practice area of critical need to the department; or

2. Voluntarily relinquish the temporary certificate.

(c) The department shall review a temporary certificateholder's practice at least annually to determine whether the certificateholder is meeting the requirements of subsections (2) and (3) and the rules adopted thereunder. If the department determines that a certificateholder is not meeting these requirements, the department must revoke the temporary certificate.

(d) A temporary certificate issued under this section is ~~shall be~~ valid ~~only as long as an area~~ for ~~which it is issued remains an area of critical need, but no longer than~~ 2 years~~,~~ and is ~~shall~~ not ~~be~~ renewable.

~~(e) The department may administer an abbreviated oral examination to determine the midwife's competency, but no written regular examination shall be necessary.~~

~~(d) The department shall not issue a temporary certificate to any midwife who is under investigation in another state for an act which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of this section shall apply.~~

~~(e) The department shall review the practice under a temporary certificate at least annually to ascertain that the minimum requirements of the midwifery rules promulgated under this chapter are being met. If it is determined that the minimum requirements are not being met, the department shall immediately revoke the temporary certificate.~~

~~(f) The fee for a temporary certificate shall not exceed $50 and shall be in addition to the fee required for licensure.~~

Section 8. Section 467.205, Florida Statutes, is amended to read:

467.205 Approval of midwifery programs.—

(1) The department shall approve an accredited or state-licensed public or private institution seeking to provide midwifery education and training as an approved midwifery program in this state if the institution meets all of the following criteria:

(a) Submits an application for approval on a form approved by the department.

(b) Demonstrates to the department's satisfaction that the proposed midwifery program complies with s. 467.009 and the rules adopted thereunder.

(c) For a private institution, demonstrates its accreditation by a member of the Council for Higher Education Accreditation and its licensing or provisional licensing by the Commission for Independent Education ~~An organization desiring to conduct an approved program for the education of midwives shall apply to the department and submit such evidence as may be required to show that it complies with s. 467.009 and with the rules of the department. Any accredited or state-licensed institution of higher learning, public or private, may provide midwifery education and training.~~

~~(2) The department shall adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and other training requirements as are necessary to ensure that approved programs graduate midwives competent to practice under this chapter.~~

~~(3) The department shall survey each organization applying for approval. If the department is satisfied that the program meets the requirements of s. 467.009 and rules adopted pursuant to that section, it shall approve the program~~.

(2) ~~(4)~~ The department shall, at least once every 3 years, certify whether each approved midwifery program is currently compliant, and has maintained compliance, ~~complies~~ with the requirements of ~~standards developed under~~ s. 467.009 and the rules adopted thereunder.

(3) ~~(5)~~ If the department finds that an approved midwifery program is not in compliance with the requirements of s. 467.009 or the rules adopted thereunder, or has lost its accreditation status, the department must provide its finding to the program in writing and ~~no longer meets the required standards, it~~ may place the program on probationary status for a specified period of time, which may not exceed 3 years ~~until such time as the standards are restored~~.

(4) If a program on probationary status does not come into compliance with the requirements of s. 467.009 or the rules adopted thereunder, or regain its accreditation status, as

applicable, within the period specified by the department ~~fails to correct these conditions within a specified period of time~~, the department may rescind the program's approval.

(5) A ~~Any~~ program that has ~~having~~ its approval rescinded has ~~shall have~~ the right to reapply for approval.

(6) The department may grant provisional approval of a new program seeking accreditation status, for a period not to exceed 5 years, provided that all other requirements of this section are met.

(7) The department may rescind provisional approval of a program that fails to the meet the requirements of s. 467.009, this section, or the rules adopted thereunder, in accordance with procedures provided in subsections (3) and (4) ~~may be granted pending the licensure results of the first graduating class~~.

Section 9. Subsections (2), (3), and (4) and paragraphs (a) and (b) of subsection (5) of section 468.803, Florida Statutes, are amended to read:

468.803 License, registration, and examination requirements.—

(2) An applicant for registration, examination, or licensure must apply to the department on a form prescribed by the board for consideration of board approval. Each initial applicant shall submit ~~a set of~~ fingerprints to the department ~~on a form and~~ under procedures specified by the department~~,~~

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

~~along with payment in an amount equal to the costs incurred by the department~~ for state and national criminal history checks of the applicant. ~~The department shall submit the fingerprints provided by an applicant to the Department of Law Enforcement for a statewide criminal history check, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant.~~ The board shall screen the results to determine if an applicant meets licensure requirements. The board shall consider for examination, registration, or licensure each applicant who the board verifies:

(a) Has submitted the completed application and completed the fingerprinting requirements ~~fingerprint forms~~ and has paid the applicable application fee, not to exceed $500~~, and the cost of the state and national criminal history checks~~. The application fee is ~~and cost of the criminal history checks shall be~~ nonrefundable;

(b) Is of good moral character;

(c) Is 18 years of age or older; and

(d) Has completed the appropriate educational preparation.

(3) A person seeking to attain the orthotics or prosthetics experience required for licensure in this state must be approved by the board and registered as a resident by the department. Although a registration may be held in both disciplines, for independent registrations the board may not

approve a second registration until at least 1 year after the issuance of the first registration. Notwithstanding subsection (2), a person who has been approved by the board and registered by the department in one discipline may apply for registration in the second discipline without an additional state or national criminal history check during the period in which the first registration is valid. Each independent registration or dual registration is valid for 2 years after the date of issuance unless otherwise revoked by the department upon recommendation of the board. The board shall set a registration fee not to exceed $500 to be paid by the applicant. A registration may be renewed once by the department upon recommendation of the board for a period no longer than 1 year, as such renewal is defined by the board by rule. The renewal fee may not exceed one-half the current registration fee. To be considered by the board for approval of registration as a resident, the applicant must have one of the following:

(a) A Bachelor of Science or higher-level postgraduate degree in orthotics and prosthetics from an ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs.

(b) A minimum of a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in orthotics or prosthetics from a program recognized by the Commission on Accreditation of Allied Health

Education Programs, or its equivalent, as determined by the board.

(c) A minimum of a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a dual certificate in both orthotics and prosthetics from programs recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board.

(4) The department may develop and administer a state examination for an orthotist or a prosthetist license, or the board may approve the existing examination of a national standards organization. The examination must be predicated on a minimum of a baccalaureate-level education and formalized specialized training in the appropriate field. Each examination must demonstrate a minimum level of competence in basic scientific knowledge, written problem solving, and practical clinical patient management. The board shall require an examination fee not to exceed the actual cost to the board in developing, administering, and approving the examination, which fee must be paid by the applicant. To be considered by the board for examination, the applicant must have:

(a) For an examination in orthotics:

1. A Bachelor of Science or higher-level postgraduate degree in orthotics and prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the

Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved orthotics internship of 1 year of qualified experience, as determined by the board, or an orthotic residency or dual residency program recognized by the board.

(b) For an examination in prosthetics:

1. A Bachelor of Science or higher-level postgraduate degree in orthotics and prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved prosthetics internship of 1 year of qualified experience, as determined by the board, or a prosthetic residency or dual residency program recognized by the board.

(5) In addition to the requirements in subsection (2), to be licensed as:

(a) An orthotist, the applicant must pay a license fee not to exceed $500 and must have:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree from an institutionally accredited college or university and ~~with~~ a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board;

2. An approved ~~appropriate~~ internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board;

3. Completed the mandatory courses; and

4. Passed the state orthotics examination or the board-approved orthotics examination.

(b) A prosthetist, the applicant must pay a license fee not to exceed $500 and must have:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree from an institutionally accredited college or university and ~~with~~ a certificate in prosthetics from

a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board;

2. An internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board;

3. Completed the mandatory courses; and

4. Passed the state prosthetics examination or the board-approved prosthetics examination.

Section 10. Section 483.824, Florida Statutes, is amended to read:

483.824 Qualifications of clinical laboratory director.—A clinical laboratory director must have 4 years of clinical laboratory experience with 2 years of experience in the specialty to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

(1) Be a physician licensed under chapter 458 or chapter 459;

(2) Hold an earned doctoral degree in a chemical, physical, or biological science from an ~~a regionally~~ accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration; or

(3) For the subspecialty of oral pathology, be a physician

licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466.

Section 11. Subsection (3) of section 490.003, Florida Statutes, is amended to read:

490.003 Definitions.—As used in this chapter:

(3)(a) "Doctoral degree from an American Psychological Association accredited program" means ~~Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean~~ a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated:

1.~~(a)~~ Had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2.~~(b)~~ Had programmatic accreditation from the American Psychological Association.

(b) "Doctoral degree in psychology" means a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and

Colleges of Canada.

Section 12. Subsection (1) of section 490.005, Florida Statutes, is amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has met all of the following requirements:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee set by the board sufficient to cover the actual per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed $500.

(b) Submitted proof satisfactory to the board that the applicant has received:

1. A doctoral degree from an American Psychological Association accredited program ~~Doctoral-level psychological education~~; or

2. The equivalent of a doctoral degree from an American Psychological Association accredited program ~~doctoral-level psychological education, as defined in s. 490.003(3),~~ from a program at a school or university located outside the United States of America which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice

professional psychology. The applicant has the burden of establishing that this requirement has been met.

(c) Had at least 2 years or 4,000 hours of experience in the field of psychology in association with or under the supervision of a licensed psychologist meeting the academic and experience requirements of this chapter or the equivalent as determined by the board. The experience requirement may be met by work performed on or off the premises of the supervising psychologist if the off-premises work is not the independent, private practice rendering of psychological services that does not have a psychologist as a member of the group actually rendering psychological services on the premises.

(d) Passed the examination. However, an applicant who has obtained a passing score, as established by the board by rule, on the psychology licensure examination designated by the board as the national licensure examination need only pass the Florida law and rules portion of the examination.

Section 13. Subsection (1) of section 490.0051, Florida Statutes, is amended to read:

490.0051 Provisional licensure; requirements.—

(1) The department shall issue a provisional psychology license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $250, as set by board rule.

(b) Earned a doctoral degree from an American Psychological Association accredited program ~~in psychology as defined in s. 490.003(3)~~.

(c) Met any additional requirements established by board rule.

Section 14. Subsections (1), (3), and (4) of section 491.005, Florida Statutes, are amended to read:

491.005 Licensure by examination.—

(1) CLINICAL SOCIAL WORK.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, ~~plus the actual per applicant cost to the department for purchase of the examination from the American Association of State Social Worker's Boards or a similar national organization,~~ the department shall issue a license as a clinical social worker to an applicant who the board certifies has met all of the following criteria:

(a) ~~Has~~ Submitted an application and paid the appropriate fee.

(b)1. ~~Has~~ Received a doctoral degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or has received a master's degree in social work from a graduate school of social work which at the time the applicant graduated:

a. Was accredited by the Council on Social Work Education;

b. Was accredited by the Canadian Association of Schools of Social Work; or

c. Has been determined to have been a program equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education. An applicant who graduated from a program at a university or college outside of the United States or Canada must present documentation of the equivalency determination from the council in order to qualify.

2. The applicant's graduate program must have emphasized direct clinical patient or client health care services, including, but not limited to, coursework in clinical social work, psychiatric social work, medical social work, social casework, psychotherapy, or group therapy. The applicant's graduate program must have included all of the following coursework:

a. A supervised field placement which was part of the applicant's advanced concentration in direct practice, during which the applicant provided clinical services directly to clients.

b. Completion of 24 semester hours or 32 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology, and no more than one course in research, taken in a school of social work accredited or approved pursuant

to subparagraph 1.

3. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

(c) ~~Has~~ Had at least 2 years of clinical social work experience, which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in subparagraph (b)2., the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the clinical social work experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(d) ~~Has~~ Passed a theory and practice examination

designated by board rule ~~provided by the department for this purpose~~.

(e) ~~Has~~ Demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(3) MARRIAGE AND FAMILY THERAPY.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, ~~plus the actual cost of the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization,~~ the department shall issue a license as a marriage and family therapist to an applicant who the board certifies has met all of the following criteria:

(a) ~~Has~~ Submitted an application and paid the appropriate fee.

(b) 1. Obtained one of the following:

a. ~~Has~~ A minimum of a master's degree with major emphasis in marriage and family therapy or a closely related field from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or from a ~~Florida~~ university program accredited by the Council for Accreditation of Counseling and Related Educational Programs.

b. A minimum of a master's degree with an emphasis in marriage and family therapy with a degree conferred date before

July 1, 2026, from an institutionally accredited college or university that is not yet accredited by the Commission on Accreditation for Marriage and Family Therapy Education or the Council for Accreditation of Counseling and Related Educational Programs.

2. Completed ~~and~~ graduate courses approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

If the course title that appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course. The required master's degree must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an institutional ~~a regional~~ accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada, or an institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an

institutional ~~a regional~~ accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program that did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.

(c) ~~Has~~ Had at least 2 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, which must have been ~~be~~ at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of experience, or the equivalent, who is a qualified supervisor as

determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field which did not include all of the coursework required by paragraph (b), credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of 10 of the courses required by paragraph (b), as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques. Within the 2 years of required experience, the applicant must ~~shall~~ provide direct individual, group, or family therapy and counseling to cases including those involving unmarried dyads, married couples, separating and divorcing couples, and family groups that include children. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(d) ~~Has~~ Passed a theory and practice examination designated by board rule ~~provided by the department~~.

(e) ~~Has~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental

health counseling.

For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure may not exceed those stated in this subsection.

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, ~~plus the actual per applicant cost of purchase of the examination from the National Board for Certified Counselors or its successor organization,~~ the department shall issue a license as a mental health counselor to an applicant who the board certifies has met all of the following criteria:

(a) ~~Has~~ Submitted an application and paid the appropriate fee.

(b)1. Obtained ~~Has~~ a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse. If the master's degree is earned from a program related to the practice of mental health counseling which is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and

practicum, internship, or fieldwork must consist of at least 60 semester hours or 80 quarter hours and meet all of the following requirements:

a. Thirty-three semester hours or 44 quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; substance abuse; and legal, ethical, and professional standards issues in the practice of mental health counseling. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework addressing diagnostic processes, including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. The graduate program must have emphasized the common core curricular experience.

c. The equivalent, as determined by the board, of at least 700 hours of university-sponsored supervised clinical practicum,

internship, or field experience that includes at least 280 hours of direct client services, as required in the accrediting standards of the Council for Accreditation of Counseling and Related Educational Programs for mental health counseling programs. This experience may not be used to satisfy the post-master's clinical experience requirement.

2. ~~Has~~ Provided additional documentation if a course title that appears on the applicant's transcript does not clearly identify the content of the coursework. The documentation must include, but is not limited to, a syllabus or catalog description published for the course.

Education and training in mental health counseling must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an institutional ~~a regional~~ accrediting body recognized by the Council for Higher Education Accreditation or its successor organization or publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada, or an institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an institutional ~~a regional~~ accrediting body

recognized by the Council for Higher Education Accreditation or its successor organization. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. Beginning July 1, 2025, an applicant must have a master's degree from a program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs or the Master's in Psychology and Counseling Accreditation Council which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(c) ~~Has~~ Had at least 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If

a graduate has a master's degree with a major related to the practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (b)1.a. and b., credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a. and b., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(d) ~~Has~~ Passed a theory and practice examination designated by department rule ~~provided by the department for this purpose~~.

(e) ~~Has~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Section 15. This act shall take effect July 1, 2021.