

Professions and Public Health Subcommittee

Thursday, January 13, 2022
9:00 AM – 11:00 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: Thursday, January 13, 2022 09:00 am

End Date and Time: Thursday, January 13, 2022 11:00 am

Location: Webster Hall (212 Knott)

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 17 Telehealth Practice Standards by Fabricio, Giallombardo
HB 343 Mental Health Professional Licensure by Koster
HB 413 Delegation of the Administration of Prescription Medications by Snyder
HB 7005 OGSR/Information Relating to the Medical Use of Marijuana/Department of Health by Government Operations Subcommittee, Rizo
HB 7007 OGSR/Nonviable Birth Certificates/Department of Health by Government Operations Subcommittee, Fetterhoff

Medical use of marijuana implementation update by Christopher Ferguson, Director, Office of Medical Marijuana Use, Florida Department of Health

For information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 01/11/2022 4:02PM by Osborne.Erin

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 17 Telehealth Practice Standards
SPONSOR(S): Fabricio
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

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

Practitioners have the ability to prescribe drugs via telehealth, but state and federal law limits the ability of practitioners to dispense controlled substances using telehealth. Controlled substances are drugs with an increased potential for patient abuse. The Florida Comprehensive Drug Abuse Prevention and Control Act classifies controlled substances into five categories, called Schedules. Schedule I drugs have a high potential for abuse and no accepted medical use. Drugs classified in schedules II through V still have the potential for abuse, but also have well established medical uses.

At present, Florida law prohibits a telehealth provider from using telehealth services to prescribe a controlled substance except when treating:

- A psychiatric disorder;
- An inpatient at a hospital;
- A patient receiving hospice services; and
- A resident of a nursing home facility.

Federal law requires a practitioner to conduct at least one in-person medical evaluation prior to dispensing a controlled substance to a patient via telehealth.

HB 17 allows practitioners to prescribe Schedule III, IV, and V controlled substances via telehealth.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Telehealth

Telehealth is not a type of health care service but rather is a mechanism for delivery of health care services. Health care professionals use telehealth as a platform to provide traditional health care services in a non-traditional manner. These services include, among others, preventative medicine and the treatment of chronic conditions.[1]

Telehealth, in its modern form,[2] started in the 1960s in large part driven by the military and space technology sectors.[3] Specifically, telehealth was used to remotely monitor physiological measurements of certain military and space program personnel. As this technology became more readily available to the civilian market, telehealth began to be used for linking physicians with patients in remote, rural areas. As advancements were made in telecommunication technology, the use of telehealth became more widespread to include not only rural areas but also urban communities. Due to recent technology advancements and general accessibility, the use of telehealth has spread rapidly and is now becoming integrated into the ongoing operations of hospitals and healthcare systems around the country.[4] In fact, there are currently an estimated 200 telehealth networks, with 3,000 service sites in the U.S.[5]

Telehealth is used to address several problems in the current health care system. Inadequate access to care is one of the primary obstacles to obtaining quality health care.[6] This occurs in both rural areas and urban communities.[7] Telehealth reduces the impact of this issue by providing a mechanism to deliver quality health care, irrespective of the location of a patient or a health care professional. Cost is another barrier to obtaining quality health care.[8] This includes the cost of travel to and from the health care facility, as well as related loss of wages from work absences. Costs are reduced through telehealth by decreasing the time and distance required to travel to the health care professional. Two more issues addressed through telehealth are the reutilization of health care services and hospital readmission. These often occur due to a lack of proper follow-up care by the patient[9] or a chronic condition.[10] These issues however can potentially be avoided through the use of telehealth and telemonitoring.[11]

Regulation of Telehealth in Florida

Service Providers

[1] U.S. Department of Health and Human Services, *Report to Congress: E-Health and Telemedicine* (August 12, 2016), available at https://aspe.hhs.gov/system/files/pdf/206751/TelemedicineE-HealthReport.pdf (last visited Nov. 1, 2021).
[2] Historically, telehealth can be traced back to the mid to late 19th century with one of the first published accounts occurring in the early 20th century when electrocardiograph data were transmitted over telephone wires. *See* Field MJ, editor, Institute of Medicine Committee on Evaluating Clinical Applications of Telemedicine, *Telemedicine: A Guide to Assessing Telecommunications in Health Care. 2, Evolution and Current Applications of Telemedicine*, available at https://www.ncbi.nlm.nih.gov/books/NBK45445/ (last visited Nov. 1, 2021).
[3] *Id.*
[4] American Telemedicine Association, *Telehealth Basics*, available at https://www.americantelemed.org/resource/why-telemedicine/ (last visited Nov. 1, 2021).
[5] *Id.*
[6] *Id.*
[7] *Id*.
[8] *Id.*
[9] Post-surgical examination subsequent to a patient's release from a hospital is a prime example. Specifically, infection can occur without proper follow-up and ultimately leads to a readmission to the hospital.
[10] For example, diabetes is a chronic condition which can benefit by treatment through telehealth.
[11] Telemonitoring is the process of using audio, video, and other telecommunications and electronic information processing technologies to monitor the health status of a patient from a distance.

In 2019, the Legislature passed and the Governor signed CS/CS/HB 23, which established a framework for telehealth services in Florida law.[12] The act broadly defines telehealth as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to:

- Assessment, diagnosis, consultation, treatment, and monitoring of a patient;
- Transfer of medical data;
- Patient and professional health-related education;
- Public health services; and
- Health administration.

Telehealth does not include audio-only telephone calls, e-mail messages, or facsimile transmission under Florida law.[13] No express authority is needed to communicate using these methods.

Health care services may be provided via telehealth by a Florida-licensed health care practitioner, a practitioner licensed under a multistate health care licensure compact of which Florida is a member,[14] or a registered out-of-state-health care provider.[15]

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

- Hold an active and unencumbered license, which is substantially similar to a license issued to a Florida practitioner in the same profession, in a U.S. state or jurisdiction and
- Not have been subject to licensure disciplinary action during the five years before submission of the registration application;[16]
- Not be subject to a pending licensure disciplinary investigation or action;
- Not have had license revoked in any state or jurisdiction;
- Designate a registered agent in this state for the service of process;
- Maintain professional liability coverage or financial responsibility, which covers services provided to patients not located in the provider's home state, in the same amount as required for Florida-licensed practitioners;[17] and
- Prominently display a link to the DOH website, described below, which provides public information on registered telehealth providers.[18]

Standards of Practice

Current law sets the standard of care for telehealth providers at the same level as the standard of care for health care practitioners or health care providers providing in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services. A patient receiving telehealth services may

[12] Ch. 2019-137, L.O.F.
[13] S. 456.47(1), F.S.
[14] Florida is a member of the Nurse Licensure Compact. *See* s. 464.0095, F.S.
[15] S. 456.47(4), F.S.
[16] The bill requires DOH to consult the National Practitioner Data Bank to verify whether adverse information is available for the registrant.
[17] Florida law requires physicians, acupuncturists, chiropractic physicians, dentists, anesthesiologist assistants, advanced practice registered nurses, and licensed midwives to demonstrate $100,000 per claim and an annual aggregate of $300,000 of professional responsibility (*see* ss. 458.320 and 459.0085, F.S.; r. 64B1-12.001. F.A.C; r. 64B2-17.009, F.A.C.; 64B5-17.0105, F.A.C.; rr. 64B8-31.006 and 64B15-7.006, F.A.C.; r. 64B9-4.002, F.A.C.; and r. 64B24-7.013, F.A.C.; respectively). Podiatric physicians must demonstrate professional responsibility in the amount of $100,000 (*see* r. 64B18-14.0072, F.A.C.).
[18] S. 456.47(4), F.S.

be in any location at the time services are rendered and a telehealth provider may be in any location when providing telehealth services to a patient.[19]

Practitioners may perform a patient evaluation using telehealth. A practitioner using telehealth is not required to research a patient's medical history or conduct a physical examination of the patient before providing telehealth services to the patient if the telehealth provider is capable of conducting a patient evaluation in a manner consistent with the applicable standard of care sufficient to diagnose and treat the patient when using telehealth.

Controlled Substances

Florida Law

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"[20] of the substance and whether there is a currently accepted medical use for the substance.[21]

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.[22]
- 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.[23]
- 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.[24]
- 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.[25]
- 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.[26]

Federal Law

The Federal Controlled Substances Act[27] 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:[28]

[19] S. 456.47(2), F.S.
[20] 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.
[21] *See* s. 893.03, F.S.
[22] S. 893.03(1), F.S.
[23] S. 893.03(2), F.S.
[24] S. 893.03(3), F.S.
[25] S. 893.03(4), F.S.
[26] S. 893.03(5), F.S.
[27] 21 U.S.C. § 812.
[28] 21 U.S.C. § 811(c).

- 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.

Telehealth Prescribing of Controlled Substances

Federal law specifically prohibits prescribing controlled substances via the Internet without an in-person evaluation:[29]

> No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.[30]

The in-person medical evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.[31] However, the Ryan Haight Online Pharmacy Consumer Protection Act,[32] signed into law in October 2008, created a pathway for telehealth practitioners to dispense controlled substances via telehealth. The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice. But, once an in-person evaluation of the patient has occurred, the practitioner may provide future prescriptions for controlled substances for that patient using telehealth services.[33]

Florida law currently prohibits a telehealth provider from using telehealth services to prescribe a controlled substance except when treating:

- A psychiatric disorder;
- An inpatient at a hospital licensed under ch. 395, F.S.;
- A patient receiving hospice services as defined under s. 400.601, F.S.;
- A resident of a nursing home facility as defined under s. 400.021(12), F.S.

Effect of Proposed Changes

HB 17 allows practitioners to prescribe Schedule III, IV, and V controlled substances using telehealth services without limitation and retains current law restrictions on prescribing Schedule II controlled substances through telehealth.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 456.47, F.S.; relating to use of telehealth to provide services.
Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[29] 21 CFR §829
[30] A valid prescription is defined as one issued by a practitioner who has conducted at least one in-person medical evaluation of the patient.
[31] 21 CFR § 829(e)(2).
[32] Ryan Haight Online Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).
[33] *Id*.

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DOH has sufficient rule-making 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 telehealth practice standards; amending s. 456.47, F.S.; revising the prohibition on prescribing controlled substances through the use of telehealth to include only specified controlled substances; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) of section 456.47, Florida Statutes, is amended to read:

456.47 Use of telehealth to provide services.—

(2) PRACTICE STANDARDS.—

(c) A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II of s. 893.03 unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;

2. Inpatient treatment at a hospital licensed under chapter 395;

3. The treatment of a patient receiving hospice services as defined in s. 400.601; or

4. The treatment of a resident of a nursing home facility as defined in s. 400.021.

Section 2. This act shall take effect July 1, 2022.

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

HB 343

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 343 Mental Health Professional Licensure
SPONSOR(S): Koster and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 566

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

SUMMARY ANALYSIS

Marriage and family therapists are trained mental health professionals who diagnose and treat mental health and emotional disorders within the context of marriage and family systems. A marriage and family therapist may treat a wide range of clinical problems, including depression, marital problems, child-parent problems, as well as individual problems. 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. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling within the Department of Health (DOH) regulates the practice of marriage and family therapy and mental health counseling.

In 2020, the Legislature passed HB 713 which, among other things, revised the licensure requirements for marriage and family therapists. Beginning on July 1, 2020, applicants for licensure must hold a master's degree from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education or a Florida university accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). However, the legislation did not provide a window of time for education programs which did not have those specific accreditations at the time the law was enacted to become accredited, meaning students who graduate on or after July 1, 2020, from such programs do not meet the accreditation qualification for licensure in Florida. HB 343 revises educational requirements for marriage and family therapy and mental health counselor licenses. The bill allows DOH to continue to issue licenses to graduates of otherwise qualified Florida marriage and family therapy programs until July 1, 2027, while such programs seek accreditation.

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. The same 2020 legislation also revised the licensure requirements for mental health counselors by requiring applicants for licensure who apply after July 1, 2025, to hold a master's degree from a program accredited by CACREP. There are currently sixteen university mental health counselor programs accredited by CACREP in this state. The University of West Florida's (UWF) mental health counselor program is the only program accredited by the Masters in Psychology and Counseling Accreditation Council (MPCAC) in this state. Thus, beginning in 2025, UWF graduates will not meet the requirements for licensure as a mental health counselor. The bill adds the MPCAC, or an equivalent body, as an authorized accrediting body for mental health counselor education programs beginning on July 1, 2025, allowing UWF to continue to graduate students who will meet the accreditation requirements for licensure.

The bill has an insignificant, negative fiscal impact on DOH and no fiscal impact on local governments.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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.[1] An applicant seeking licensure as a mental health counselor must:[2]

- 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;[3]
- 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
- 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 (COAMFTE) and the Council for the Accreditation of Counseling and Related Educational Programs (CACREP) that establish the minimum standards to meet the requirements to practice the profession.[4]

In 2020, the Legislature passed HB 713, which, among other things, revised licensure requirements for marriage and family therapists. Beginning on July 1, 2020, applicants for licensure must possess a master's degree from an a program accredited by COAMFTE or from a Florida university program accredited by CACREP and board-approved graduate courses.[5] However, a window of time was not granted for education programs which were unaccredited at the time to apply for and obtain such accreditation, meaning students who graduate on or after July 1, 2020, from such programs do not meet the accreditation qualifications for licensure in Florida.[6] Currently, six universities in Florida have a marriage and family therapy program that is not accredited by either COAMFTE or CACREP.[7]

---

[1] Department of Health, Agency Analysis of House Bill 343 (Oct. 25, 2021).
[2] 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.)
[3] 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.
[4] *See* Commission on Accreditation for Marriage and Family Therapy Education, *What Are the Benefits of COAMFTE Accreditation*, https://www.coamfte.org/COAMFTE/Accreditation/About_Accreditation.aspx (last visited March 16, 2021), and Council for the Accreditation of Counseling and Related Educational Programs, *About CACREP*, https://www.cacrep.org/about-cacrep/ (last visited March 16, 2021).
[5] Section 491.005, F.S. (2020).
[6] *Supra*, note 1.
[7] Email from Andrew Love, Director of Legislative Planning, Department of Health, MFT Follow-up, (July 27, 2021). The universities are Carlos Albizu, Jacksonville University, Palm Beach Atlantic University, St. Thomas University, University of Miami, and University of Phenix.

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.[8] To qualify for licensure as a mental health counselor, an individual must:[9]

- Have a master's degree from a mental health counseling program accredited by CACREP, 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.[10]

Ch. 2020-133, L.O.F, also revised licensure requirements for mental health counselors. Beginning July 1, 2025, applicants for licensure as a mental health counselor must hold a master's degree from a program accredited by CACREP.[11] The CACREP accreditation standards require 60 credits of specified educational content and a 700-hour practicum requiring face-to-face psychotherapy.[12] There are currently sixteen universities in this state accredited by CACREP.[13] The University of West Florida's (UWF) mental health counselor program is the only program accredited by the Masters in Psychology and Counseling Accreditation Council in this state.[14] Thus, beginning in 2025, UWF's current accreditation for its mental health counselor program will not be sufficient for graduates to meet licensure requirements in this state.

Effect of the Bill

Marriage and Family Therapists

The bill allows DOH to continue to issue licenses to graduates of otherwise qualified Florida marriage and family therapy programs until July 1, 2027, while such programs seek accreditation.

Mental Health Counselors

The bill adds the Masters in Psychology and Counseling Accreditation Council, or an equivalent body, as an authorized accrediting body for mental health counselor education programs beginning on July 1, 2025. This will allow UWF to continue to graduate students who are eligible for licensure in this state.

B. SECTION DIRECTORY:

Section 1: Amends s. 491.005, F.S., relating to licensure by examination.
Section 2: Provides the bill shall take effect upon becoming a law.

[8] Sections 491.003(6) and (9), F.S.
[9] Section 491.005(4), F.S.
[10] Section 491.005(4), F.S., and r. 64B4-3.0035, F.A.C.
[11] Section 491.005(4)(b), F.S.
[12] *Supra*, note 1.
[13] Council for Accreditation for Counseling and Related Educational Programs, *Find a Program,* https://www.cacrep.org/directory/ (last visited Dec. 22, 2021).
[14] Masters in Psychology and Counseling Accreditation Council, *Accredited Programs*, http://mpcacaccreditation.org/accredited-programs/ (last visited Dec. 22, 2021).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOH will experience a non-recurring increase in workload to update IT systems and websites, the impact of which can be absorbed within current resources.[15]

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:

Rule-making authority is not needed to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[15] *Supra*, note 1.

A bill to be entitled

An act relating to mental health professional licensure; amending s. 491.005, F.S.; revising educational requirements for marriage and family therapist and mental health counselor licenses; providing an effective date.

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

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

491.005 Licensure by examination.—

(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. Attained one of the following:

a. A minimum of a master's degree in marriage and family therapy from a program accredited by the Commission on

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

Accreditation for Marriage and Family Therapy Education;

b. A minimum of a master's degree with a major emphasis in marriage and family therapy or a closely related field from a university program accredited by the Council on Accreditation of Counseling and Related Educational Programs and graduate courses approved by the board; or

c. ~~Has~~ A minimum of a master's degree with an ~~major~~ emphasis in marriage and family therapy or a closely related field, with a degree conferred before September 1, 2027, from an institutionally accredited college or university ~~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~~ and graduate courses approved by the board ~~of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling~~.

2. If the course title that appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant must ~~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 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 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) Completed ~~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 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 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 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 <u>has met all of the following criteria</u>:

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

(b)1. <u>Attained</u> ~~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 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 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, the Masters in Psychology and Counseling Accreditation Council, or an equivalent accrediting body which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(c) Completed ~~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 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 2. This act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Professions & Public Health Subcommittee

Representative Koster offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

491.005 Licensure by examination.—

(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. Attained one of the following:

a. A minimum of a master's degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education;

b. A minimum of a master's degree with a major emphasis in marriage and family therapy or a closely related field from a university program accredited by the Council on Accreditation of Counseling and Related Educational Programs and graduate courses approved by the board; or

c. Has a minimum of a master's degree with an ~~major~~ emphasis in marriage and family therapy or a closely related field, with a degree conferred before September 1, 2027, from an institutionally accredited college or university ~~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~~ and graduate courses approved by the board ~~of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling~~.

2. If the course title that appears on the applicant's transcript does not clearly identify the content of the

coursework, the applicant must ~~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 Council for Higher Education Accreditation or its successor organization ~~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 Council for Higher Education Accreditation or its successor organization ~~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) Completed ~~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 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 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. Attained ~~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, the Masters in Psychology and Counseling Accreditation Council, or an equivalent accrediting body which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(c) Completed ~~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 2. This act shall take effect upon becoming a law.

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

Remove everything before the enacting clause and insert: An act relating to mental health professional licensure; amending s. 491.005, F.S.; revising licensing requirements for marriage and family therapists and mental health counselors; providing an effective date.

HB 413

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 413 Delegation of the Administration of Prescription Medications
SPONSOR(S): Snyder
TIED BILLS: **IDEN./SIM. BILLS:** SB 700

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

SUMMARY ANALYSIS

Certified nursing assistants (CNAs) and home-health aides (HHAs) assist older individuals and those with disabilities with daily tasks, such as dressing, bathing, and eating. Under current law, a CNA or HHA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency if a registered nurse delegates such tasks and the CNA or HHA:

- Has completed a 6-hour training course approved by the Board of Nursing (Board); and
- Has been found competent to administer medication to a patient in a safe and sanitary manner.

A registered nurse or physician must conduct the training and determine whether the CNA or HHA can competently administer medication, and annually validate such competency. Current law requires the Board and the Agency for Health Care Administration (AHCA) to adopt rules, in consultation with each other, on the standards and procedures that a CNA or HHA must follow for medication administration. Such rules must address qualifications for trainers, medication label requirements, documentation and recordkeeping, storage and disposal of medication, instructions for safe medication administration, informed consent, training curriculum, and validation procedures.

A registered nurse is prohibited from delegating the administration of medications listed as Schedule II, Schedule III, or Schedule IV controlled substances.

Under current law, a registered nurse is not authorized to delegate to a CNA or HHA medication administration to a patient of a nurse registry.

A nurse registry is an agency licensed to secure employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers, and companions (caregivers) in a patient's home or with health care facilities or other entities. Caregivers referred for contract to a patient by a nurse registry are independent contractors not employees of the nurse registry. Nurse registries must advise patients that caregivers referred for contract are independent contractors and that the nurse registry is prohibited from monitoring, supervising, managing, or training caregivers.

HB 413 authorizes a registered nurse to delegate to a CNA or HHA medication administration to a patient of a nurse registry. The bill requires a nurse registry that authorizes a registered nurse to delegate tasks to a CNA or HHA to ensure that such delegation meets specified requirements. The bill requires the Board, in consultation with AHCA, to adopt rules on the standards and procedures that a CNA must follow for medication administration to a patient of a nurse registry.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Direct Care Workers

Direct care workers assist older individuals and those with disabilities with daily tasks, such as dressing, bathing, and eating.[1] They work in many different settings, such as private homes, group homes, residential care facilities, assisted living facilities, skilled nursing facilities, and hospitals.[2] Direct care workers account for 70 to 80 percent of all paid hands-on long-term care and personal assistance for the elderly or disabled.[3]

Nursing Assistants or Nursing Aides

Nursing assistants or nursing aides generally work in nursing homes, although some work in assisted living facilities, other community-based settings, or hospitals.[4] The Florida Board of Nursing (Board), within the Department of Health, certifies nursing assistants (CNAs) who must, among other things, hold a high school diploma or equivalent, complete a 120-hour board-approved training program, and pass a nursing assistant competency exam.[5] The Board establishes the general scope of practice for CNAs, who perform services under the general supervision[6] of a registered nurse or licensed practical nurse.[7] A CNA may not work independently and may not perform any tasks that require specialized nursing knowledge, judgment, or skills.[8]

Home Health Aides

Home health aides (HHA) provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or a physical, speech, occupational, or respiratory therapist.[9] In Florida, HHAs are not licensed or certified. However, the Agency for Health Care Administration (AHCA) licenses home health agencies and establishes training requirements for HHAs employed by home health agencies. HHAs who work for state licensed only home health agencies or who work for a nurse registry must complete 40 hours of training or pass an AHCA-developed competency examination.[10] However, HHAs who works for a home health agency certified by Medicare or Medicaid must complete at least 75 hours of training and successfully pass a competency evaluation to meet federal regulations.[11]

Nurse Delegation of Duties

---

[1] Paraprofessional Healthcare Institute, *Understanding the Direct Care Workforce*, available at https://phinational.org/policy-research/key-facts-faq/ (last visited Nov. 22, 2021).
[2] Paraprofessional Healthcare Institute, *Direct Care Workforce 2018 Year in Review*, https://phinational.org/resource/the-direct-care-workforce-year-in-review-2018/ (last visited Nov. 22, 2021).
[3] Paraprofessional Healthcare Institute, *Who Are Direct-Care Workers?* https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf (last visited Nov. 22, 2021).
[4] *Id*.
[5] S. 464.203, F.S., and r. 64B9-15.006, F.A.C. Eighty hours must be classroom instruction and 40 hours must be clinical instruction, 20 of which must be in long term care clinical instruction in a licensed nursing home. 42 C.F.R. § 483.152 requires 75 hours of training; Florida training requirements exceed the federal minimum training requirements.
[6] Under general supervision, the registered nurse or licensed practical nurse does not need to be present but must be available for consultation and advice, either in person or by a communication device. R. 64B9-15.001(6), F.A.C
[7] R. 64B9-15.002, F.A.C.
[8] *Id.*
[9] *Supra* note 3. If the only service the home health agency provides is physical, speech, or occupational therapy, in addition to home health aide or CNA services, a licensed therapist may provide supervision. R. 59A-8.0095, F.A.C.
[10] R. 59A-8.0095(5)(d).
[11] 42 C.F.R. § 484.80. *See also*, Agency for Health Care Administration, *Home Health Aides,* available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Lab_HomeServ/HHA/Home_health_aides.shtml (last visited Nov. 22, 2021).

Under current law, a registered nurse is authorized to delegate any task, including medication administration, to a CNA or HHA,[12] if the registered nurse determines that the CNA or HHA is competent to perform the task, the task is delegable under federal law, and the task:[13]

- Is within the nurse's scope of practice;
- Frequently recurs in the routine care of a patient or group of patients;
- Is performed according to an established sequence of steps;
- Involves little or no modification from one patient to another;
- May be performed with a predictable outcome;
- Does not inherently involve ongoing assessment, interpretation, or clinical judgement; and
- Does not endanger a patient's life or well-being.

Medication Administration

Medication administration is to obtain and provide a single dose of a medication to a patient for his or her consumption.[14] Currently, a CNA or HHA may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency if a registered nurse delegates such tasks to the CNA and the CNA:[15]

- Has completed a 6-hour training course approved by the Board; and
- Has been found competent to administer medication to a patient in a safe and sanitary manner.

A registered nurse or physician must conduct the training and determine whether the CNA or HHA can competently administer medication, and annually validate such competency.[16] Current law requires the Board and AHCA to adopt rules, in consultation with each other, on the standards and procedures that a CNA or HHA must follow for medication administration to a patient of a home health agency.[17] Such rules must address qualifications for trainers, medication label requirements, documentation and recordkeeping, storage and disposal of medication, instructions for safe medication administration, informed consent, training curriculum, and validation procedures.[18]

A registered nurse is prohibited from delegating the administration of medications listed as Schedule II, Schedule III, or Schedule IV controlled substances.[19]

Under current law, a registered nurse is not authorized to delegate to a CNA or HHA medication administration to a patient of a nurse registry. Additionally, the Board and AHCA are not required to adopt rules on the standards and procedures that a CNA must follow for medication administration to a patient of a nurse registry.

Nurse Registries

A nurse registry is an agency licensed to secure employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers, and companions (caregivers) in a patient's home or with health care facilities or other entities.[20] Nurse registries are governed by part II of chapter 408, F.S.,[21] associated rules in Chapter 59A-35, F.A.C., and the nurse registry rules in Chapter 59A-18, F.A.C. A nurse registry must be licensed by AHCA to offer contracts in Florida.[22]

[12] Ss. 400.489 and 464.2035, F.S. Home health aide includes those CNAs who work in positions that work as home health aides or equivalent positions.
[13] Ss. 400.489 and 464.0156, F.S.
[14] S. 465.003, F.S.
[15] Ss. 400.489(1) and 464.2035(1), F.S.
[16] *Id*.
[17] Ss. 400.489(3) and 464.2035(3), F.S.
[18] *Id*.
[19] S. 464.0156(1), F.S
[20] S. 400.462(21), F.S.
[21] S. 400.506(2), F.S. A nurse registry is also governed by the provisions in s. 400.506, F.S.
[22] S. 400.506(1), F.S.

A caregiver referred by a nurse registry for contract in a private residences who is not a nurse licensed under part I of chapter 464, such as a CNA or HHA, may only provide patient services or care for which they have been certified or trained to perform under current law or rules of AHCA or the Department of Business and Professional Regulation.[23] Providing services beyond their authorized scope constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is subject to punishment as provided under current law.

A caregiver referred for contract to a patient by a nurse registry is an independent contractor not an employee of the nurse registry.[24] Nurse registries must advise patients that a caregiver referred for contract is an independent contractor and that the nurse registry is prohibited from monitoring, supervising, managing, or training the caregiver.[25]

Effect of Proposed Bill

HB 413 authorizes a registered nurse to delegate to a CNA or HHA medication administration to a patient of a nurse registry. The bill requires a nurse registry that authorizes a registered nurse to delegate tasks to a CNA or HHA to ensure that such delegation meets the requirements of chapter 400, chapter 464, and the rules adopted thereunder. The bill requires the Board, in consultation with AHCA, to adopt rules on the standards and procedures that a CNA must follow for medication administration to a patient of a nurse registry.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 400.506, relating to the licensure of nurse registries.
Section 2: Amends s. 464.0156, relating to the delegation of duties.
Section 3: Amends s. 464.2035, relating to the administration of medication.
Section 4: Provides an effective date of July 1, 2022.

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.

[23] S. 400.506(7).
[24] S. 400.506(6)(d).
[25] S. 400.506(6)(e).

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 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 delegation of the administration of prescription medications; amending s. 400.506, F.S.; requiring a nurse registry that authorizes a registered nurse to delegate tasks to a certified nursing assistant or a home health aide to ensure that certain requirements are met; amending s. 464.0156, F.S.; authorizing a registered nurse to delegate the administration of certain duties for the care of a patient of a nurse registry; amending s. 464.2035, F.S.; authorizing certified nursing assistants to administer certain medication to patients of nurse registries under certain circumstances; providing an effective date.

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

Section 1. Subsection (7) of section 400.506, Florida Statutes, is amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(7) A person who is referred by a nurse registry for contract in private residences and who is not a nurse licensed under part I of chapter 464 may perform only those services or care to clients that the person has been certified to perform or

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

trained to perform as required by law or rules of the Agency for Health Care Administration or the Department of Business and Professional Regulation. Providing services beyond the scope authorized under this subsection constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chapter 458, chapter 459, or part I of chapter 464. If a nurse registry authorizes a registered nurse to delegate tasks, including medication administration, to a certified nursing assistant under chapter 464 or to a home health aide under s. 400.490, the nurse registry must ensure that such delegation meets the requirements of this chapter and chapter 464 and the rules adopted thereunder.

Section 2. Subsection (2) of section 464.0156, Florida Statutes, is amended to read:

464.0156 Delegation of duties.—

(2) A registered nurse may delegate to a certified nursing assistant or a home health aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency or nurse registry~~,~~ if the certified nursing assistant or home health aide meets the requirements of s. 464.2035 or s. 400.489, respectively. A registered nurse may not delegate the administration of any controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.

812.

Section 3. Subsections (1) and (3) of section 464.2035, Florida Statutes, are amended to read:

464.2035 Administration of medication.—

(1) A certified nursing assistant may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medication to a patient of a home health agency or nurse registry if the certified nursing assistant has been delegated such task by a registered nurse licensed under part I of this chapter, has satisfactorily completed an initial 6-hour training course approved by the board, and has been found competent to administer medication to a patient in a safe and sanitary manner. The training, determination of competency, and initial and annual validation required under this section must be conducted by a registered nurse licensed under this chapter or a physician licensed under chapter 458 or chapter 459.

(3) The board, in consultation with the Agency for Health Care Administration, shall establish by rule standards and procedures that a certified nursing assistant must follow when administering medication to a patient of a home health agency or nurse registry. Such rules must, at a minimum, address qualification requirements for trainers, requirements for labeling medication, documentation and recordkeeping, the storage and disposal of medication, instructions concerning the safe administration of medication, informed-consent requirements

and records, and the training curriculum and validation procedures.

Section 4. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7005 PCB GOS-22-01 OGSR/Information Relating to the Medical Use of Marijuana/Department of Health
SPONSOR(S): Government Operations Subcommittee, Rizo
TIED BILLS: **IDEN./SIM. BILLS:** SB 7002

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	Roth	Toliver
1) Professions & Public Health Subcommittee		Rahming	McElroy
2) State Affairs Committee			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Department of Health Office of Medical Marijuana (OMMU) has been tasked with creating and maintaining a secure, electronic, and online medical marijuana use registry for physicians, patients, and caregivers. Additionally, OMMU must issue medical marijuana use registry identification cards for qualified patients and caregivers.

Current law provides a public record exemption for certain information relating to medical marijuana held by the Florida Department of Health. The public record exemption protects the following information from disclosure:

- A patient's or caregiver's personal identifying information held in the medical marijuana use registry including, but not limited to, the patient's or caregiver's name, address, date of birth, photograph, and telephone number.
- Personal identifying information collected for the purpose of issuing a patient's or caregiver's medical marijuana use registry identification card.
- Personal identifying information pertaining to the physician certification for marijuana and the dispensing thereof, including but not limited to, information related to the patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana.
- Personal identifying information contained in a qualified physician's Drug Enforcement Administration number, residential address, and government-issued identification card.

The bill saves from repeal the public record exemption, which will repeal on October 2, 2022, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created then a public necessity statement and a two-thirds vote for passage are not required.

Department of Health (DOH)

The purpose of DOH is to protect and promote the health of all residents and visitors in Florida.[5] Under current law, DOH must: [6]

- Identify, diagnose, and conduct surveillance of diseases and health conditions in the state and accumulate the health statistics necessary to establish trends.
- Implement interventions that prevent or limit the impact or spread of diseases and health conditions.
- Collect, manage, and analyze vital statistics and other health data to inform the public and formulate public health policy and planning.
- Maintain and coordinate preparedness for and responses to public health emergencies in the state.
- Provide or ensure the provision of quality health care and related services to identified populations in the state.
- Regulate environmental activities that have a direct impact on public health in the state.
- Regulate health practitioners for the preservation of the health, safety, and welfare of the public.

Office of Medical Marijuana Use

[1] S. 119.15, F.S.
[2] S. 119.15(3), F.S.
[3] S. 119.15(6)(b), F.S.
[4] Art. I, s. 24(c), Fla. Const.
[5] S. 20.43(1), F.S.
[6] S. 20.43(1)(a)-(g), F.S.

The Department of Health Office of Medical Marijuana Use (OMMU) is responsible for the statewide implementation and oversight of medical marijuana. This includes the development and implementation of DOH's rules for medical marijuana, oversight of the database of ordering physicians and qualified patients (Medical Marijuana Use Registry), patient and caregiver identification cards and licensure of businesses authorized to provide low-THC cannabis and medical marijuana to qualified patients.

Medical Marijuana Use Registry

OMMU has been tasked with creating and maintaining a secure, electronic, and online medical marijuana use registry for physicians, patients, and caregivers.[7] The medical marijuana use registry must be accessible to law enforcement agencies, qualified physicians, and medical marijuana treatment centers (MMTC) to verify the authorization of a qualified patient[8] or a caregiver[9] to possess marijuana or a marijuana delivery device and to record the marijuana or marijuana delivery device dispensed.[10] The medical marijuana use registry must also be accessible to practitioners licensed to prescribe prescription drugs to ensure proper care for patients before medications that may interact with the medical use of marijuana are prescribed.[11] OMMU must determine whether an individual is a resident of Florida for the purpose of registration of qualified patients and caregivers in the medical marijuana use registry.[12]

OMMU may suspend or revoke the registration of a qualified patient or caregiver if the qualified patient or caregiver:[13]

- Provides misleading, incorrect, false, or fraudulent information to OMMU;
- Obtains a supply of marijuana in an amount greater than the amount authorized by the physician certification;
- Falsifies, alters, or otherwise modifies an identification card;
- Fails to timely notify OMMU of any changes to his or her qualified patient status; or
- Violates the requirements of Florida statute or rule regarding the use of medical marijuana.

Additionally, OMMU:

- Must immediately suspend the registration of a qualified patient or caregiver charged with a violation of the Florida Comprehensive Drug Abuse Prevention and Control Act[14] until final disposition of any alleged offense.[15]
- May revoke the registration of a qualified patient or caregiver who cultivates marijuana or who acquires, possesses, or delivers marijuana from any person or entity other than a MMTC.[16]
- Must revoke the registration of a qualified patient, and the patient's associated caregiver, upon notification that the patient no longer meets the criteria of a qualified patient.[17]

Use Registry Identification Cards

[7] S. 381.986(5)(a), F.S.
[8] The term "qualified patient" means a resident of this state who has been added to the medical marijuana use registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card. S. 381.986(1)(l), F.S.
[9] The term "caregiver" means a resident of this state who has agreed to assist with a qualified patient's medical use of marijuana, has a caregiver identification card, and meets the requirements of s. 381.986(6), F.S. S. 381.986(1)(a), F.S.
[10] S. 381.986(5)(a), F.S.
[11] *Id.*
[12] S. 381.986(5)(b), F.S.
[13] S. 381.986(5)(c), F.S.
[14] Ch. 893, F.S.
[15] S. 381.986(5)(d)-(e), F.S.
[16] S. 381.986(5)(f), F.S.
[17] S. 381.986(5)(g), F.S.

OMMU must issue medical marijuana use registry identification cards for qualified patients and caregivers who are residents of Florida. Identification cards must be renewed annually and must include, at a minimum:[18]

- The name, address, and date of birth of the qualified patient or caregiver.
- A full-face, passport-type, color photograph of the qualified patient or caregiver.
- Identification as a qualified patient or a caregiver.
- The unique numeric identifier used for the qualified patient in the medical marijuana use registry.
- For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the caregiver is assisting.
- The expiration date of the identification card.

Applications for identification cards must be submitted on a form prescribed by OMMU, and OMMU may charge a reasonable fee associated with the issuance, replacement, and renewal of identification cards.[19] A qualified patient or caregiver must return his or her identification card to OMMU within five business days after revocation.[20]

Physician Certification

A qualified physician[21] may issue a physician certification only if the qualified physician:[22]

- Conducted a physical examination while physically present in the same room as the patient and a full assessment of the medical history of the patient.
- Diagnosed the patient with at least one qualifying medical condition.[23]
- Determined that the medical use of marijuana would likely outweigh the potential health risks for the patient.
- Determined whether the patient is pregnant.
- Reviewed the patient's controlled drug prescription history in the prescription drug monitoring program database.[24]
- Reviewed the medical marijuana use registry and confirmed that the patient does not have an active physician certification from another qualified physician.
- Registered as the issuer of the physician certification for the named qualified patient on the medical marijuana use registry in an electronic manner.
- Obtains the voluntary and informed written consent of the patient for medical use of marijuana each time the qualified physician issues a physician certification for the patient.

Public Record Exemption under Review

In 2017, the Legislature expanded a public record exemption that protected certain personal identifying information relating to medical marijuana held by DOH. The information is confidential and exempt[25] from public disclosure. The public record exemption protects the following information from disclosure:

---

[18] S. 381.986(7)(a)1.-6., F.S.
[19] S. 381.986(7)(d), F.S.
[20] S. 381.986(7)(e), F.S.
[21] The term "qualified physician" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and is in compliance with the physician education requirements of subsection s. 381.986(3), F.S. S. 381.986(1)(m), F.S.
[22] S. 381.986(4)(a), F.S.
[23] A list of qualifying medical conditions are found in s. 381.986(2), F.S.
[24] The prescription drug monitoring program database was established pursuant to s. 893.055, F.S.
[25] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. *See* Attorney General Opinion 85-62 (Aug. 1, 1985).

- A patient's or caregiver's personal identifying information held in the medical marijuana use registry including, but not limited to, the patient's or caregiver's name, address, date of birth, photograph, and telephone number.
- Personal identifying information collected for the purpose of issuing a patient's or caregiver's medical marijuana use registry identification card.
- Personal identifying information pertaining to the physician certification for marijuana and the dispensing thereof, including but not limited to, information related to the patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana.
- A qualified physician's Drug Enforcement Administration number, residential address, and government-issued identification card.

DOH must allow the following entities to access the confidential and exempt information in the medical marijuana use registry:[26]

- A law enforcement agency that is investigating a violation of law regarding marijuana in which the subject of the investigation claims an exception.[27]
- A MMTC approved by DOH, which is attempting to verify the authenticity of a physician certification for marijuana, including whether the certification had been previously filled and whether the certification was issued for the person attempting to have it filled.[28]
- A physician who has issued a certification for marijuana for the purpose of monitoring the patient's use of such marijuana or for the purpose of determining, before issuing a certification for marijuana, whether another physician has issued a certification for the patient's use of marijuana.[29]
- A practitioner licensed to prescribe prescription medications to ensure proper care of a patient before prescribing medication to that patient which may interact with marijuana.
- An employee of DOH for the purposes of maintaining the registry and periodic reporting or disclosure of information that has been redacted to exclude personal identifying information.
- An employee of DOH for the purposes of reviewing physician registration and the issuance of physician certifications to monitor practices that could facilitate unlawful diversion or the misuse of marijuana or a marijuana delivery device.
- The DOH's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a physician if he or she is involved in a specific investigation of a violation of medical use of marijuana.[30]
- The Consortium for Medical Marijuana Clinical Outcomes Research.[31]
- A person engaged in bona fide research.[32]

DOH must also allow access to the confidential and exempt information pertaining to the physician certification for marijuana and the dispensing thereof, whether in the registry or otherwise held by DOH, to a DOH employee for the purpose of approving or disapproving a request for an exception to the daily dose amount limit for a qualified patient, and to the Consortium for Medical Marijuana Clinical Outcomes Research for the purpose of conducting research regarding the medical use of marijuana.[33]

---

[26] S. 381.987(2), F.S.

[27] A law enforcement agency cannot access information related to a patient's diagnosis.

[28] A MMTC cannot access information related to a patient's diagnosis.

[29] The physician may access the confidential and exempt information only for the patient for whom he or she has issued a certification or is determining whether to issue a certification for the use of marijuana.

[30] *See* s. 381.986, F.S.

[31] The Consortium for Medical Marijuana Clinical Outcomes Research is established in s. 1004.4351(4), F.S.

[32] In order to engage in bona fide research, the person must agree:

- To submit a research plan to DOH which specifies the exact nature of the information requested and the intended use of the information;
- To maintain the confidentiality of the records or information if personal identifying information is made available to the researcher;
- To destroy any confidential and exempt records or information obtained after the research is concluded; and
- Not to contact, directly or indirectly, for any purpose, a patient or physician whose information is in the registry.

[33] S. 381.987(3), F.S.

All confidential and exempt information released by DOH remains confidential and exempt, and a person who receives access to such information must maintain the confidential and exempt status of the information received.[34] A person who willfully and knowingly violates the public records exemption for personal identifying information relating to medical marijuana held by DOH commits a felony of the third degree.[35]

The 2017 public necessity statement[36] for the exemption states the following:

> The choice made by a physician to certify, and by his or her patient to use, marijuana to treat the patient's medical condition or symptoms and the choice made by a caregiver to assist a qualifying patient with the medical use of marijuana is a personal and private matter between such parties. The availability of such information could make the public aware of both the patient's use of marijuana and the patient's diseases or other medical conditions for which the patient is using marijuana. The knowledge of the patient's use of marijuana, the knowledge that the physician certified the use of marijuana, the knowledge of the patient's diseases or other medical conditions, and the knowledge that a caregiver is assisting a patient with the medical use of marijuana could be used to embarrass, humiliate, harass, or discriminate against the patient, the caregiver, or the physician. This information could be used as a discriminatory tool by an employer who disapproves of the patient's use of marijuana, the caregiver's assistance in the use of marijuana, or the physician certification of such use.[37]

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2022, unless saved from repeal by the Legislature.[38]

During the 2021 interim, subcommittee staff[39] met with staff from DOH. DOH staff stated they had not had any issues interpreting or applying the exemption and that they were unaware of the existence of any complaints concerning the exemption. Further, DOH staff stated that there have been no legal challenges concerning the exemption. Between January 1, 2018, and August 31, 2021, the OMMU staff has received approximately 644 requests for the confidential and exempt information contained in the medical marijuana use registry. This total consists of approximately 71 subpoenas for patient medical records and 573 requests for customized medical marijuana use registry data. As such, DOH staff recommended that the exemption be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption for certain personal identifying information relating to medical marijuana held by DOH, thereby reenacting the public record exemption. The bill also makes non-substantive technical changes to the statute and removes language permitting DOH to protect additional records at its discretion.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.987, F.S., to save from repeal the public record exemption for personal identifying information relating to medical marijuana held by the department.

Section 2: Provides an effective date of October 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[34] S. 381.987(4), F.S.
[35] S. 381.987(5), F.S. A third degree felony is punishable by up to 5 years imprisonment or a fine up to $5,000.
[36] Art. I, s. 24(c), Fla. Const., requires each public record exemption "state with specificity the public necessity justifying the exemption."
[37] Ch. 2017-231, L.O.F.
[38] S. 381.987(6), F.S.
[39] Government Operations Subcommittee, Florida House of Representatives.

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 381.987, F.S., which provides an exemption from public records requirements for certain information of patients, caregivers, and qualified physicians held by the Department of Health relating to the medical use of marijuana; removing the scheduled repeal of the exemption; making technical changes; providing an effective date.

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

Section 1. Subsections (1) and (6) of section 381.987, Florida Statutes, are amended to read:

381.987 Public records exemption for personal identifying information relating to medical marijuana held by the department.—

(1) The following information held by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) A patient's or caregiver's personal identifying information ~~held by the department~~ in the medical marijuana use registry established under s. 381.986~~, including, but not limited to, the patient's or caregiver's name, address, date of birth, photograph, and telephone number~~.

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

(b) All personal identifying information collected for the purpose of issuing a patient's or caregiver's medical marijuana use registry identification card described in s. 381.986.

(c) All personal identifying information pertaining to the physician certification for marijuana and the dispensing thereof ~~held by the department, including, but not limited to, information related to the patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana~~.

(d) A qualified physician's Drug Enforcement Administration number, residential address, and government-issued identification card.

~~(6) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7007 PCB GOS 22-02 OGSR/Nonviable Birth Certificates/Department of Health
SPONSOR(S): Government Operations Subcommittee, Fetterhoff
TIED BILLS: **IDEN./SIM. BILLS:** SB 7000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	Roth	Toliver
1) Professions & Public Health Subcommittee		Rahming	McElroy
2) State Affairs Committee			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Florida Vital Statistics Act directs the Department of Health (DOH), to establish the Bureau of Vital Statistics under the direction of a state registrar for the uniform and efficient registration, compilation, storage, and preservation of all vital records in Florida.

A nonviable birth is an "an unintentional, spontaneous fetal demise occurring after the completion of the 9th week of gestation but prior to the 20th week of gestation of a pregnancy that has been verified by a health care practitioner." For any nonviable birth in Florida, DOH must issue a certificate of nonviable birth within 60 days upon the request of a parent named on the registration of nonviable birth.

Current law provides a public record exemption for certain information that may be collected by DOH when issuing a nonviable birth certificate. Specifically, the parentage of the fetus, marital status of the parents, the cause of death, and any medical information included in nonviable birth records are confidential and exempt from public disclosure. However, DOH may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information to the fetus's parent, to any local, state, or federal agency for official purposes upon approval by DOH, or upon the order of any court of competent jurisdiction. Additionally, DOH may release the confidential and exempt information for health research purposes as approved by the department.

The bill saves from repeal the public record exemption, which will repeal on October 2, 2022, if this bill does not become law.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created then a public necessity statement and a two-thirds vote for passage are not required.

Department of Health (DOH)

The purpose of DOH is to protect and promote the health of all residents and visitors in Florida.[5] Under current law, DOH must:[6]

- Identify, diagnose, and conduct surveillance of diseases and health conditions in the state and accumulate the health statistics necessary to establish trends.
- Implement interventions that prevent or limit the impact or spread of diseases and health conditions.
- Collect, manage, and analyze vital statistics and other health data to inform the public and formulate public health policy and planning.
- Maintain and coordinate preparedness for and responses to public health emergencies in the state.
- Provide or ensure the provision of quality health care and related services to identified populations in the state.
- Regulate environmental activities that have a direct impact on public health in the state.
- Regulate health practitioners for the preservation of the health, safety, and welfare of the public.

[1] S. 119.15, F.S.
[2] S. 119.15(3), F.S.
[3] S. 119.15(6)(b), F.S.
[4] S. 24(c), Art. I, Fla. Const.
[5] S. 20.43(1), F.S.
[6] S. 20.43(1)(a)-(g), F.S.

Vital Statistics in Florida

The Florida Vital Statistics Act[7] directs DOH to establish the Bureau of Vital Statistics[8] under the direction of a state registrar for the uniform and efficient registration, compilation, storage, and preservation of all vital records[9] in this state.[10] DOH is also responsible for establishing registration districts throughout the state and appointing a local registrar of vital statistics for each registration district.[11]

Registration of Live Births

Within five days of each live birth in Florida, a certificate of live birth must be filed with the local registrar of the district in which the birth occurred.[12] The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer.[13]

Registration of Deaths

A certificate for each death or fetal death[14] that occurs in Florida must be filed within five days after such death and prior to the final disposition of the dead body or fetus.[15] Final disposition means the burial, interment, entombment, cremation, removal from the state, anatomical donation, or other authorized disposition of a dead body or fetus.[16] The registration of the death certificate may be submitted via DOH's electronic death registration system to the Bureau of Vital Statistics on a form prescribed by DOH, or to the local registrar of the district in which the death occurred.[17]

Stillbirth Registration

DOH must issue a certificate of birth resulting in stillbirth upon the request of any parent listed on a fetal death certificate.[18] A stillbirth is an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.[19] The certificate of birth resulting in stillbirth must be issued within 60 days of the request[20] and a parent may request the certificate of birth resulting in stillbirth regardless of the date the fetal death certificate was issued.[21] The certificate of birth resulting in stillbirth may not be used to pursue a civil cause of action against a person or an entity for bodily injury, personal injury, or wrongful death.[22]

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

[7] S. 382.001, F.S.
[8] Although the statute refers to an Office of Vital Statistics, it has been established as the Bureau of Vital Statistics within DOH. The Bureau has been established under DOH's Division of Public Health Statistics and Performance Management.
[9] A vital record is defined as certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, certain name change, and data related thereto. S. 382.002(18), F.S.
[10] S. 382.003(1), F.S.
[11] S. 382.003(2), F.S.
[12] S. 382.013, F.S.
[13] S. 382.013(1)(h), F.S.
[14] S. 382.002(8), F.S., a "fetal death" is a death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.
[15] S. 382.008(1), F.S.
[16] S. 382.002(9), F.S.
[17] S. 382.008(1), F.S.
[18] S. 382.0085, F.S.
[19] S. 382.002(17), F.S.
[20] S. 382.0085(1), F.S.
[21] S. 382.0085(6), F.S.
[22] S. 382.0085(9), F.S.

receive such certificate. The parent must also be advised that the certificate of birth resulting in stillbirth is a public record if it is held by an agency.[23]

The certificate of birth resulting in stillbirth contains:

- The date of the stillbirth;
- The county in which the stillbirth occurred;
- The name of the stillborn child;
- The state file number of the corresponding certificate of fetal death; and
- A statement that the certificate is not proof of live birth.[24]

Certificate of Nonviable Birth

A nonviable birth is an "an unintentional, spontaneous fetal demise occurring after the completion of the 9th week of gestation but prior to the 20th week of gestation of a pregnancy that has been verified by a health care practitioner."[25] For any nonviable birth in Florida, DOH must issue a certificate of nonviable birth within 60 days upon the request of a parent named on the registration of nonviable birth.[26]

The person or entity authorized to register a nonviable birth must advise a parent of a nonviable birth of the following:[27]

- That the parent may request the preparation of a certificate of nonviable birth.
- That the parent may obtain a certificate of nonviable birth by contacting the Bureau of Vital Statistics.
- How the parent may contact the Bureau of Vital Statistics to request a certificate of nonviable birth.
- That a copy of the original certificate of nonviable birth is available as a public record.
- That a copy of the original certificate of nonviable birth will not include the parentage, the marital status of the parent, the cause of death of the fetus, or any medical information.

Within 30 days of a receipt of a request from a parent, the health care practitioners and health care facilities required to advise a parent of the availability of the certificate of nonviable birth must file a registration of nonviable birth with DOH or a local registrar of the district in which the nonviable birth occurred.[28] The registration may be filed in the state's electronic death registration system or on a form prescribed by DOH.[29]

The certificate of nonviable birth must contain the date of the nonviable birth, the county in which the nonviable birth occurred, and the name of the fetus provided on the registration of nonviable birth submitted by the attending healthcare practitioner or the healthcare facility at which the nonviable birth occurred.[30] If the fetus does not have a name, the Bureau of Vital Statistics is directed to indicate "baby boy" or "baby girl" and the last name of the parent on the certificate of nonviable birth. If the sex of the fetus is not known, the Bureau of Vital Statistics is directed to indicate the name "baby" and the last name of the parent on the certificate of nonviable birth.[31] The certificate must state, "This certificate is not proof of a live birth," on its front.[32]

The Bureau of Vital Statistics may not use a certificate of nonviable birth in the calculation of live birth statistics, and a nonviable birth may not be used to establish, bring, or support a civil cause of action

[23] S. 382.0085(2), F.S.
[24] S. 382.0085(4), F.S.
[25] S. 382.002(14), F.S.
[26] S. 382.0086(1), F.S.
[27] S. 382.0086(2), F.S.
[28] S. 382.008(7), F.S.
[29] *Id.*
[30] S. 382.0086(4)(a)-(c), F.S.
[31] S. 382.0086(4)(c), F.S.
[32] S. 382.0086(4)(d), F.S.

seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a nonviable birth.[33]

Public Record Exemption under Review

In 2017, the Legislature created a public record exemption in s. 382.008(8), F.S., for certain information that may be collected by DOH when issuing a nonviable birth certificate. Specifically, the parentage of the fetus, marital status of the parents, the cause of death, and any medical information included in nonviable birth records are confidential and exempt[34] from public disclosure. However, DOH may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information to the fetus's parent, to any local, state, or federal agency for official purposes upon approval by DOH, or upon the order of any court of competent jurisdiction. Additionally, DOH may release the confidential and exempt information for health research purposes as approved by the department.

The 2017 public necessity statement[35] for the exemption states the following:

> Medical information, including the cause of death of a nonviable fetus, and any medical information pertaining thereto, is sensitive and personal in nature and disclosure of such information may lead to an invasion of privacy of a parent experiencing a nonviable birth. Disclosure of information regarding the parentage of a nonviable fetus and the marital status of such fetus' parent may discourage an individual who would otherwise request a nonviable birth certificate from doing so due to real or perceived stigma regarding the nonviability of the fetus, the fetus' parentage, or the marital status of the fetus' parent. Currently, death and fetal death records make such information confidential and exempt from public disclosure. The Legislature finds that the same protections should be afforded to a parent who wishes to memorialize a nonviable birth with a nonviable birth certificate as part of his or her grieving process.[36]

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2022, unless saved from repeal by the Legislature.[37]

During the 2021 interim, subcommittee staff met with staff from DOH. DOH staff stated they had not had any issues interpreting or applying the exemption and that they were unaware of the existence of any litigation concerning the exemption. Further, DOH staff stated that they had not received any complaints concerning the exemption. As such, DOH staff recommended that the exemption be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption for certain information that may be collected when issuing a nonviable birth certificate, thereby reenacting the public record

---

[33] Ss. 382.0086(8)&(9), F.S.

[34] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. *See* Attorney General Opinion 85-62 (Aug. 1, 1985).

[35] Art. I, s. 24(c), Fla. Const., requires each public record exemption "state with specificity the public necessity justifying the exemption."

[36] Ch. 2017-39, L.O.F.

[37] S. 382.008(8)(d), F.S.

exemption. The bill also makes non-substantive technical changes to the statute to create uniformity with similar statutes.

B. SECTION DIRECTORY:

Section 1: Amends s. 382.008, F.S., to save from repeal the public record exemption for nonviable birth records.

Section 2: Provides an effective date of October 1, 2022.

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 382.008, F.S., which provides an exemption from public records requirements for certain information included in nonviable birth certificates issued by the Department of Health; removing the scheduled repeal of the exemption; making technical changes; providing an effective date.

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

Section 1. Subsection (8) of section 382.008, Florida Statutes, is amended to read:

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

(8)(a) The original nonviable birth certificate shall contain all of the information required by the department for legal, social, and health research purposes. ~~The department may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information:~~

~~1. To the fetus' parent;~~

~~2. To any local, state, or federal agency for official purposes upon approval by the department; or~~

~~3. Upon the order of any court of competent jurisdiction.~~

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

(b) All information relating to the cause of death and parentage of a nonviable fetus, the marital status of such fetus' parent, and any medical information included in nonviable birth records held by a state agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, but may be released for health research purposes as approved by the department.

(c)1. The department shall authorize the issuance of a certified copy of all or part of an original nonviable birth certificate, excluding any information that is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, to any person requesting such copy, pursuant to paragraph (b), upon receipt of a request and payment of the fee prescribed in s. 382.0255.

2. The department may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information:

a. To the fetus' parent;

b. To any local, state, or federal agency for official purposes upon approval by the department; or

c. Upon the order of any court of competent jurisdiction.

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

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

Section 2. This act shall take effect October 1, 2022.

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

OMMU Presentation

FLORIDA DEPARTMENT OF HEALTH

Office of Medical Marijuana Use

Program Update

Florida House of Representatives
Professions & Public Health Subcommittee
January 13, 2022

Christopher Ferguson, Director
Office of Medical Marijuana Use

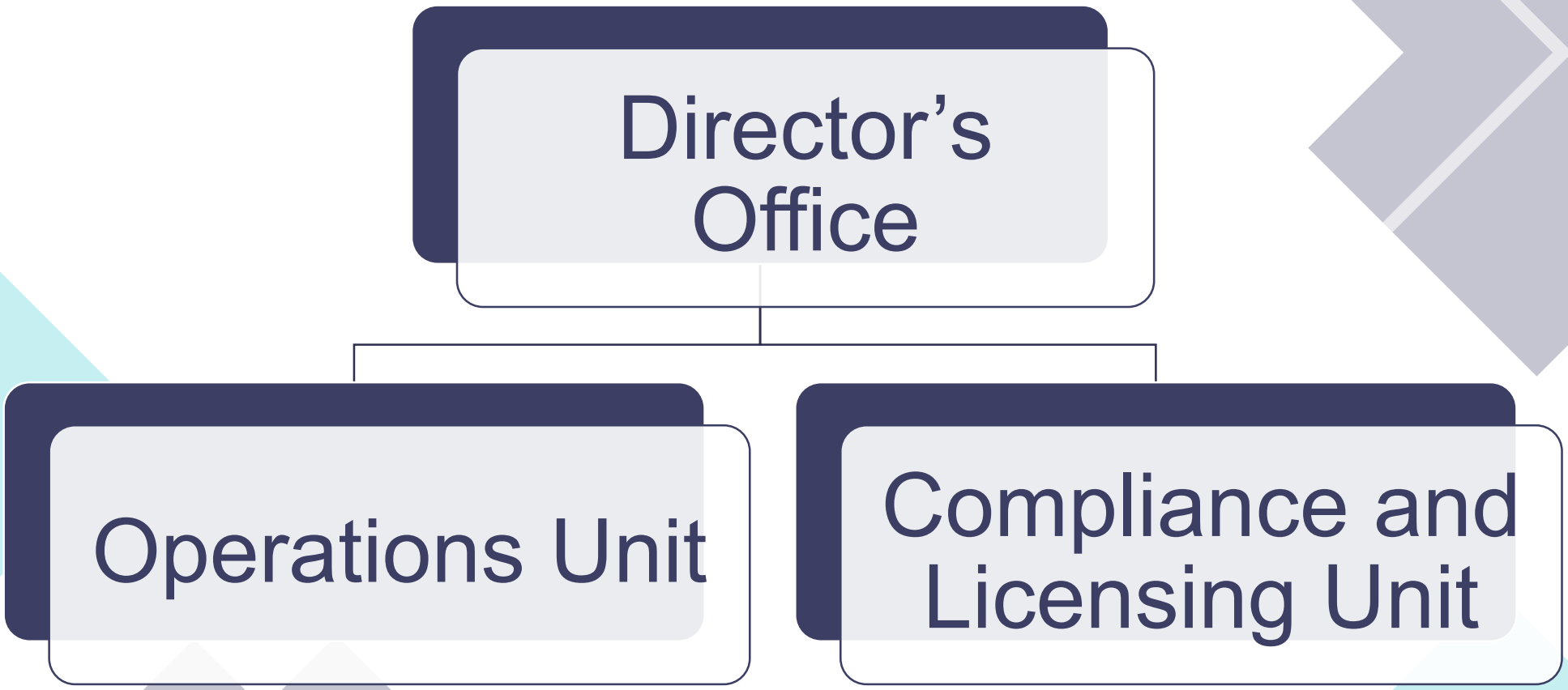
Florida HEALTH

OMMU

Program Overview

- The Office of Medical Marijuana Use (OMMU):
  - Develops and implements the Department of Health's rules for medical marijuana.
  - Oversees the statewide Medical Marijuana Use Registry (MMUR).
  - Licenses Florida businesses to cultivate, process and dispense medical marijuana to qualified patients.
  - Certifies marijuana testing laboratories to ensure the health and safety of the public as it relates to marijuana.
- There are currently 22 licensed medical marijuana treatment centers (MMTCs), 21 of which have received authorization at all three stages to dispense to qualified patients.
- Additionally, the OMMU has approved nine certified marijuana testing laboratories (CMTLs).

OMMU Organization



Operations Unit: Highlights

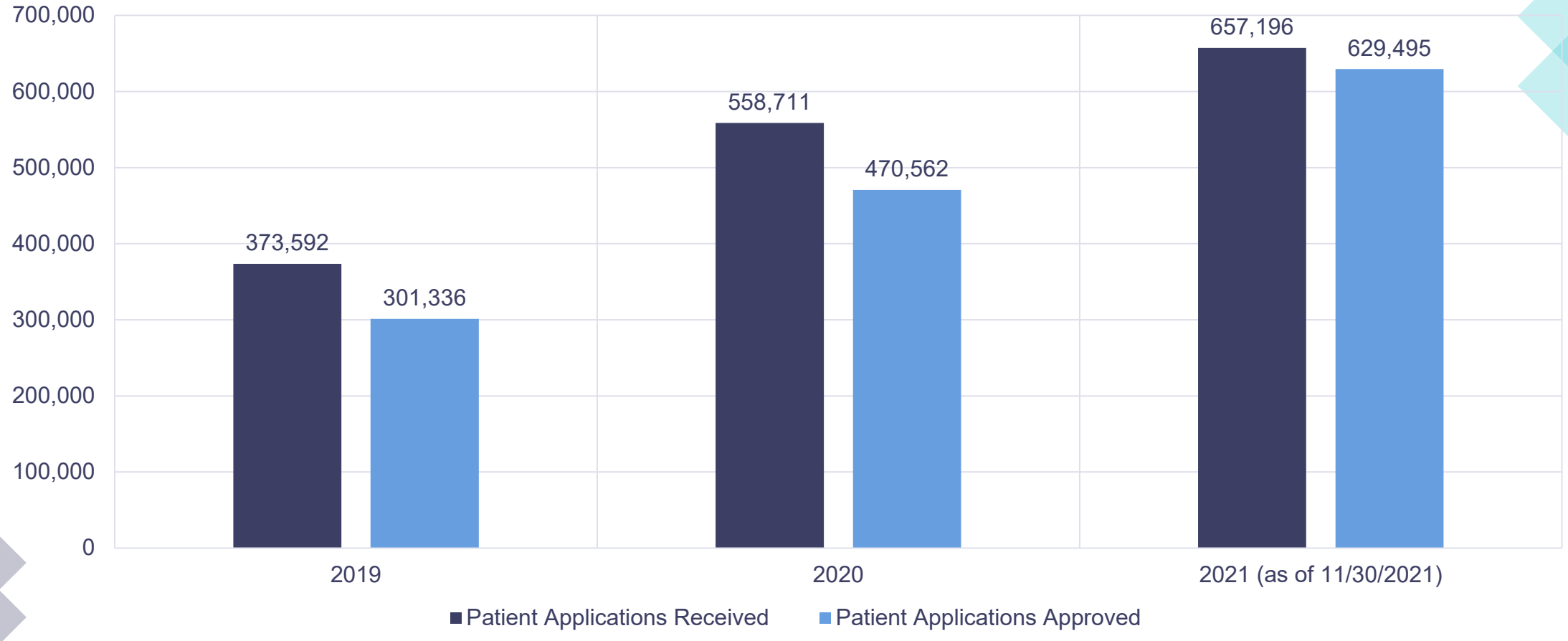
MMUR: Recent Enhancements

- Some recent enhancements to the MMUR include:
  - Addition of the ability for MMTCs to select marijuana delivery devices as an option for dispensation.
  - Addition of marijuana in form for smoking and edibles as permissible routes of administration.
  - Application Programming Interface (API) integration to permit single-entry automation by MMTCs.
  - Creation of a physician certification documentation dashboard allowing physicians to submit required documentation directly in the MMUR.
  - Integration with the Department of Highway Safety and Motor Vehicles (DHSMV) identification (ID) card photograph and demographic data.

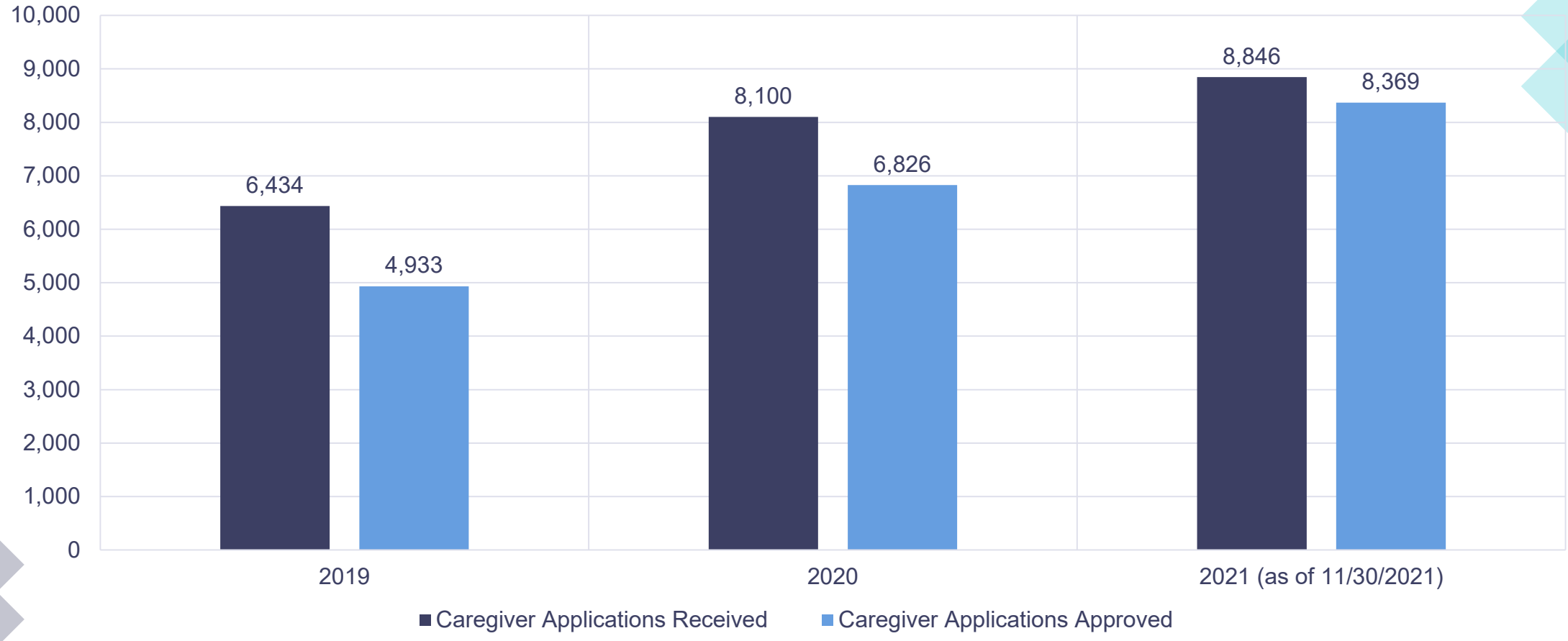
MMUR: Next Steps

- Moving forward, the OMMU plans to implement:
  - Continued integration of the MMUR with other OMMU systems to improve business processes and increase efficiency.
  - Continued upgrades to accommodate growth.
  - Improved reporting infrastructure to allow for better reporting capabilities.
  - Same-day approval of MMUR ID card applications when an ID card application is coupled with DHSMV information.

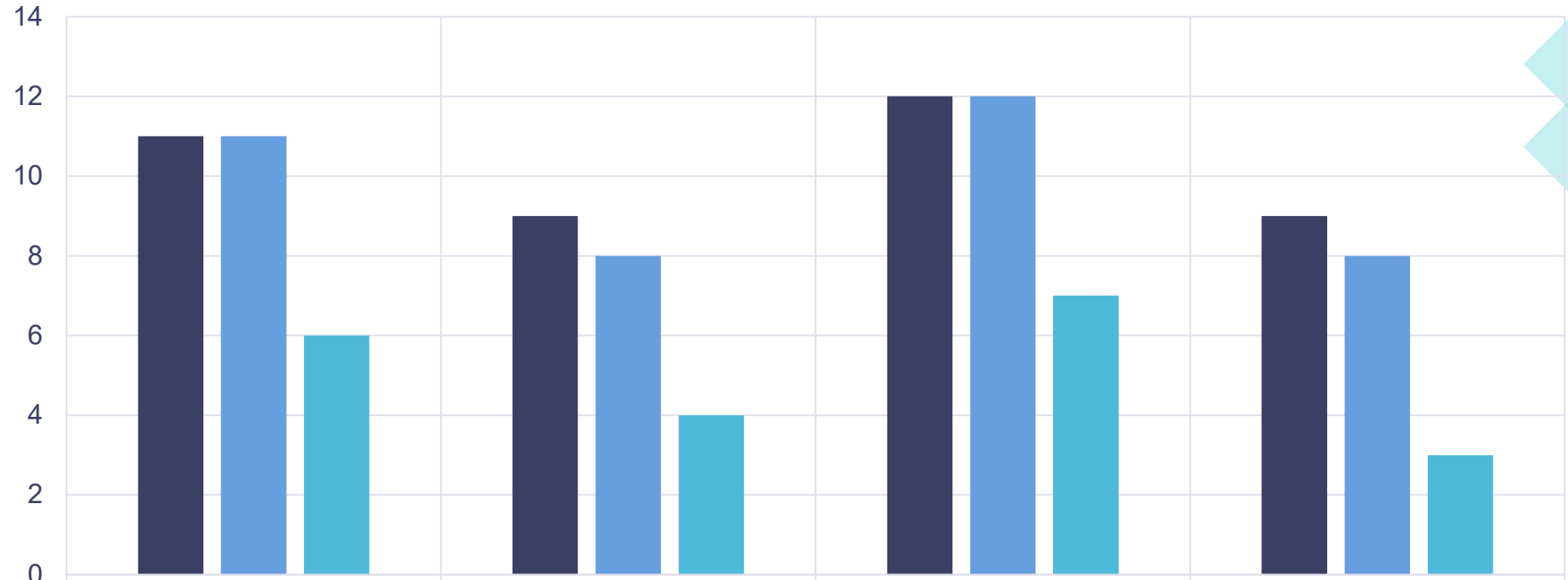
MMUR ID Card Applications - Patients



MMUR ID Card Application - Caregivers

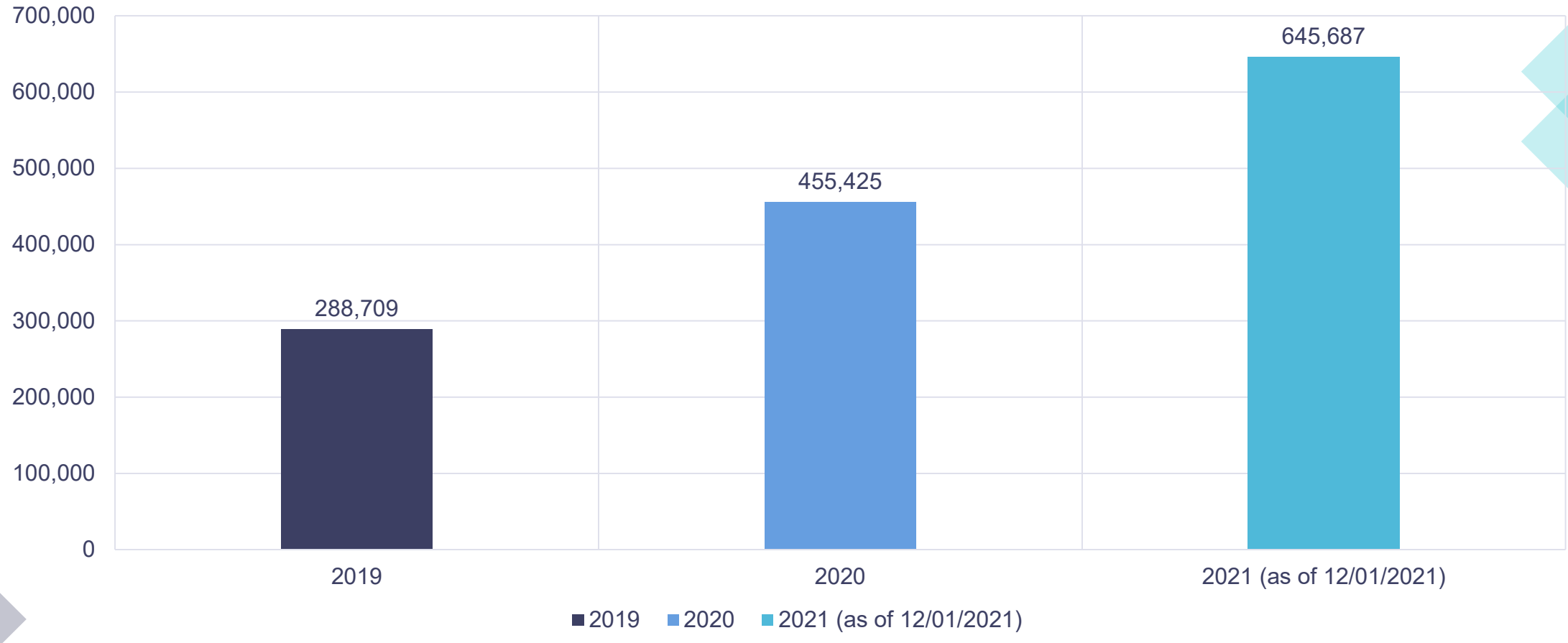


MMUR ID Card Application Processing Times

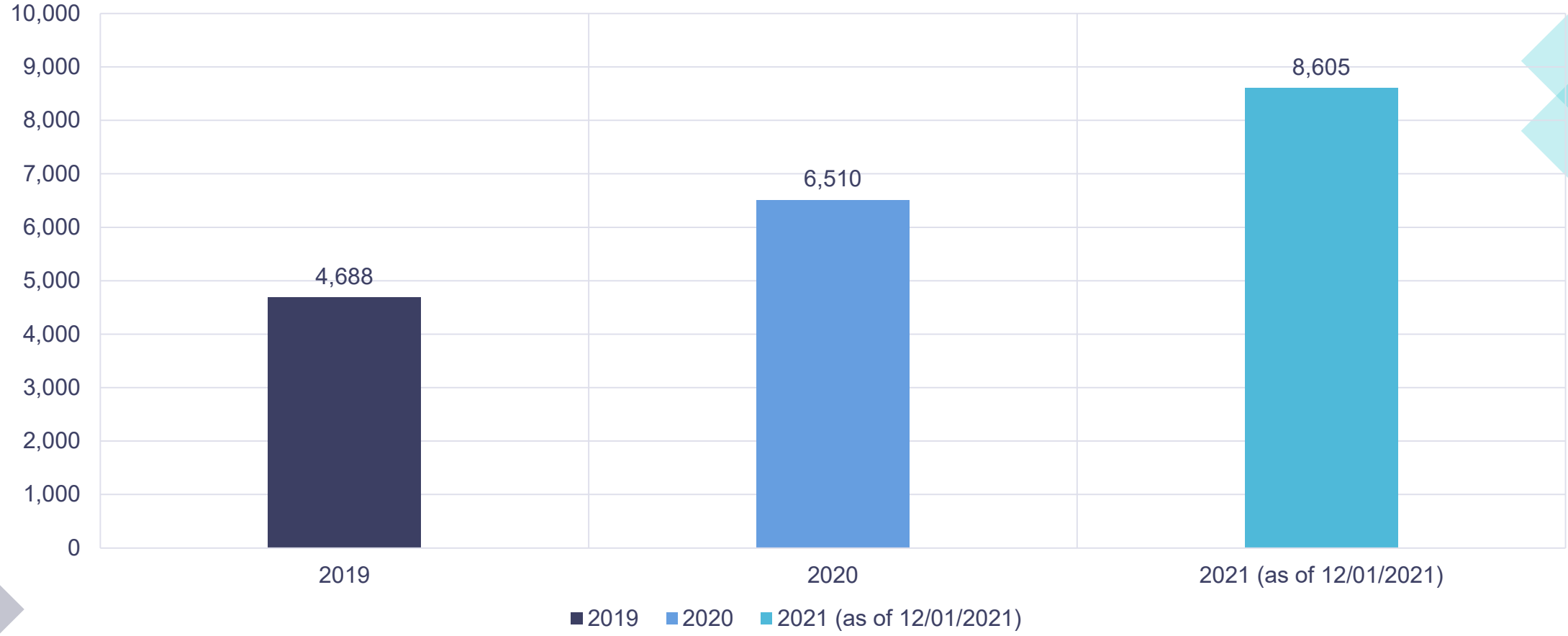


	Initial Application Days to Approval	Initial Application Days to Print from Approval	Renewal Application Days to Approval	Renewal Application Days to Print from Approval
2019	11	9	12	9
2020	11	8	12	8
2021 (as of 12/01/2021)	6	4	7	3

Active Patients



Active Caregivers



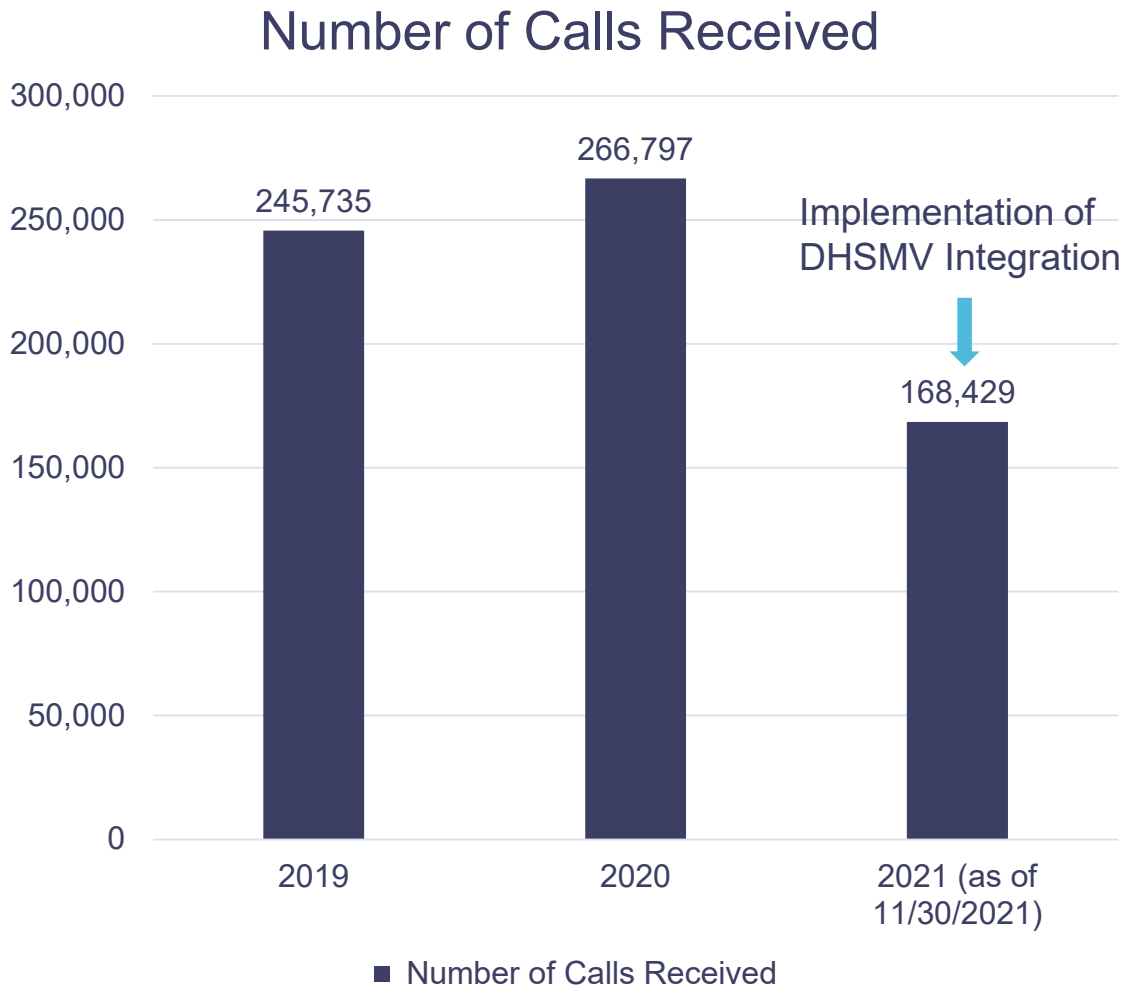
Qualified Physicians and Physician Certifications

	October 1, 2018 – September 30, 2019	October 1, 2019 – September 30, 2020	October 1, 2020 – September 30, 2021
Certifications	460,469	664,779	975,267
Qualified Physicians with Certifications	1,487	1,625	1,684
All Qualified Physicians	2,556	2,700	2,563

Data source: Physician Certification Pattern Review Panel 2022 Annual Report, https://flboardofmedicine.gov/pdfs/012022-PCPR-PanelAR.pdf.

Call Center

- The OMMU recently installed the Avaya Phone System which:
  - Creates phone queues to facilitate agent-caller communication.
  - Enables OMMU call team to better track and log incoming calls.
  - Creates a more robust interactive voice response (IVR) providing information that reduces the dependency level of a caller speaking to an agent.



Compliance Licensing Enforcement and Regulatory (CLEAR) System

In June 2020, the OMMU implemented CLEAR.

In August 2020, the OMMU began Phase 2 of the CLEAR implementation.

Florida Administrative Code and Register Rules

Since January 2019, the OMMU has:



Adopted 36 Emergency Rules



Adopted 9 Nonemergency Rules



Filed 13 Notices of Rule Development for 28 Rules



Filed 4 Notices of Proposed Rule for 7 Rules



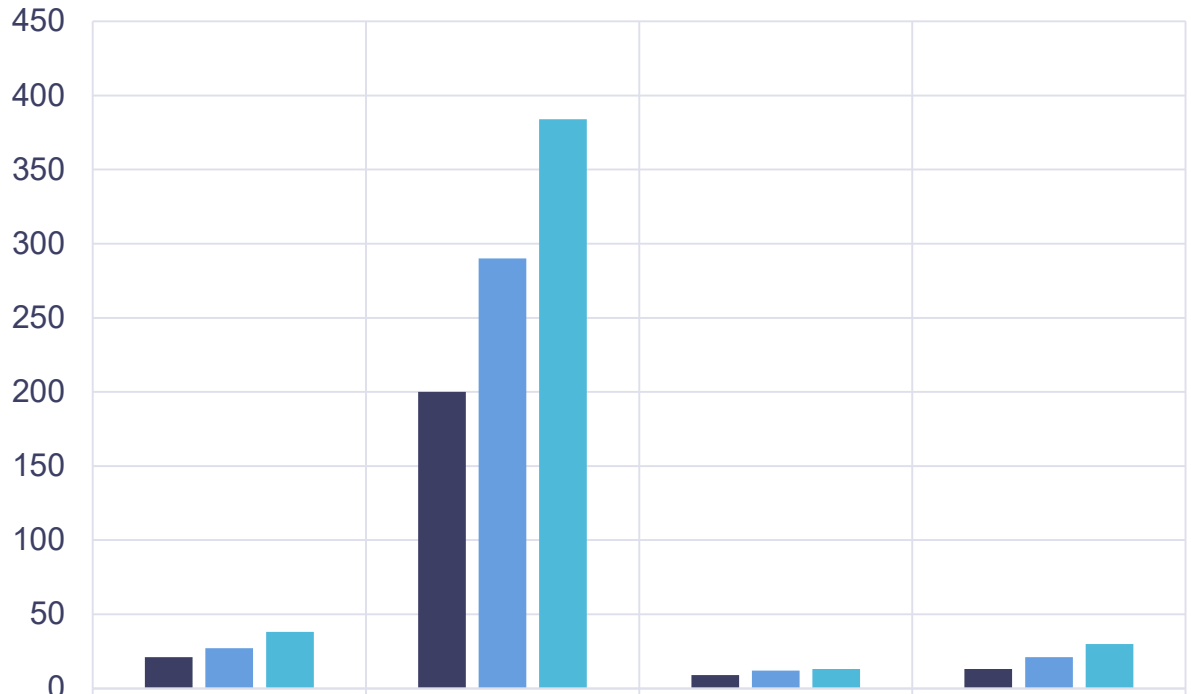
Held 3 Rules Workshops

MMTC Application Rules

- The OMMU recently adopted the following emergency rules:
  - 64ER21-16, Application for *Pigford/Black Farmers Litigation (BFL)* MMTC Licensure, effective October 13, 2021.
  - 64ER21-19, Application Window for the *Pigford/BFL* Batching Cycle, effective December 1, 2021.
- The OMMU is moving forward with administrative rulemaking to establish an application process for non-*Pigford/BFL* applicants. The OMMU will publish any application rule and date the OMMU will begin accepting applications in the Florida Administrative Register.
- Based on statutory requirements, the OMMU will award up to 19 MMTC licenses.

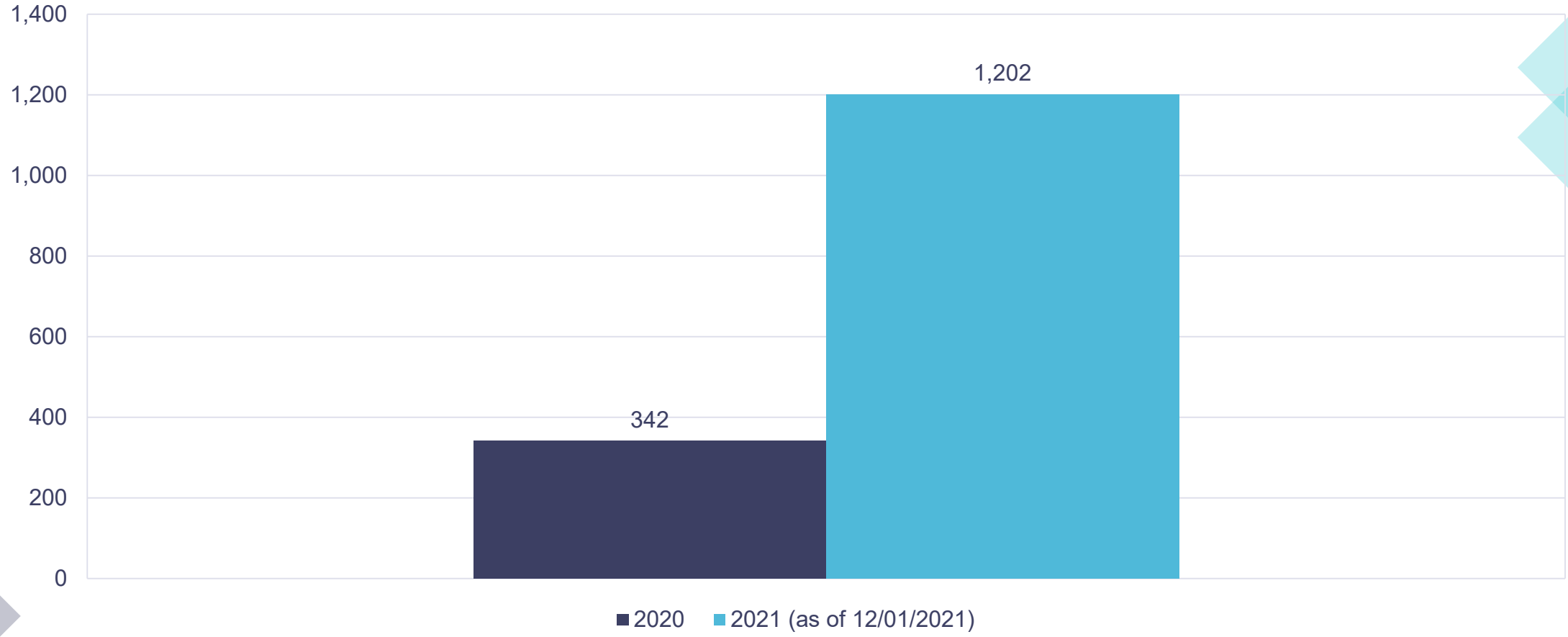
Compliance and Licensing Unit: Highlights

Facilities

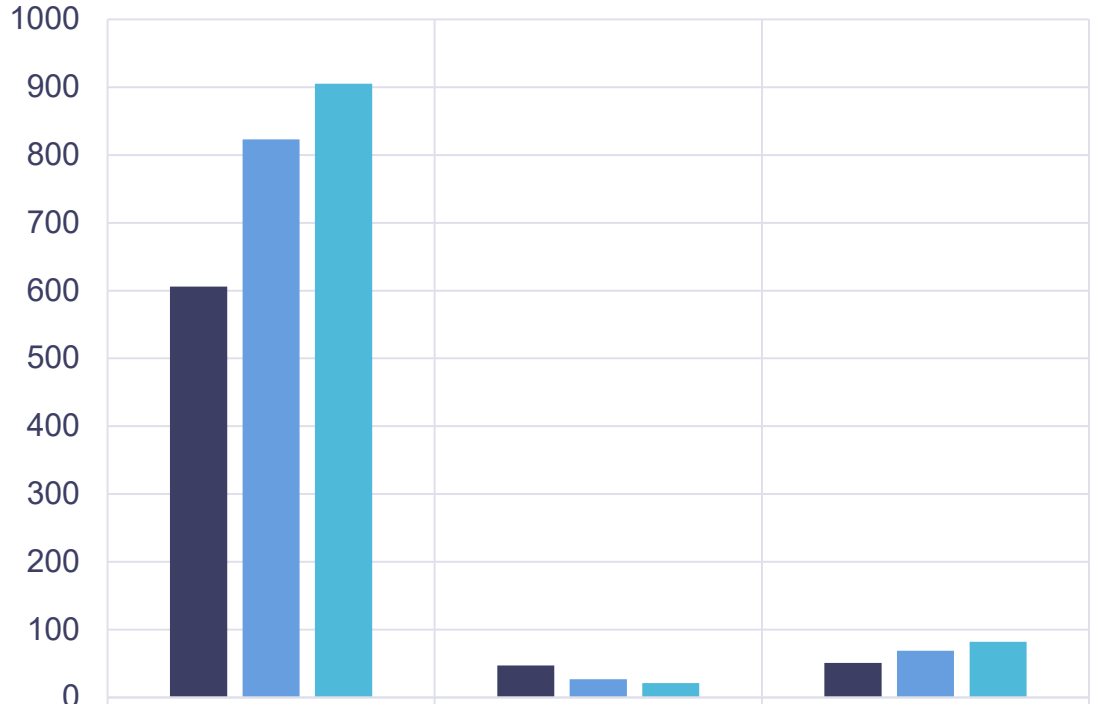


	Cultivation Facility	Dispensing Facility	Fulfillment and Storage Facility	Processing Facility
2019	21	200	9	13
2020	27	290	12	21
2021 (as of 12/01/2021)	38	384	13	30

Inspections



Variance Cases



	Number of Variance Cases	Average Processing Time in Days	Estimated Variances Per Month
2019	606	47	51
2020	823	27	69
2021 (as of 12/01/2021)	905	21	82

MMTC Product Offerings

Product Types	Count of Processed Products to Market	Range in Potency Tetrahydrocannabinol (THC) Content as a Percent of Volume	
		Lower Threshold	Upper Threshold
Balm	6	0.4%	0.9%
Body Oil	18	0.7%	1.2%
Capsule	67	0.5%	3.0%
Concentrate	72	63.0%	90.0%
Flower Cup	17	15.0%	28.0%
Inhaled (Crumble)	13	80.0%	90.0%
Inhaled (Diamond)	1	67.0%	89.0%
Inhaled (Rosin)	10	80.0%	90.0%
Inhaled (RSO)	18	60.0%	90.0%
Inhaled (Sauce)	3	80.0%	90.0%
Inhaled (Shatter)	17	80.0%	90.0%
Inhaled (Wax)	4	80.0%	90.0%
Inhaler	3	60.0%	87.0%
Kief	9	70.0%	85.0%
Lotion	24	0.3%	0.8%
Oil (Tincture)	108	1.3%	4.0%
Powder	3	95.0%	100.0%
Pre-roll	30	15.0%	28.0%
Resin	5	80.0%	90.0%
Suppository	9	1.3%	3.0%
Transdermal Patch	18	11.1%	90.0%
Vaporizer Cartridge	216	60.0%	87.0%
Vaporizer Disposable	20	75.0%	87.0%
Whole Flower	210	10.0%	28.0%
Edibles	145	A multi-serving edible may not contain more than 200 mg of THC, and a single-serving edible, or a single serving portion of a multi-serving edible, may not exceed 10 mg of THC.	

Thank you

Contact Information

Mailing Address:
Office of Medical Marijuana Use
4052 Bald Cypress Way, Bin M-01
Tallahassee, FL 32399

Phone: 850-245-4657
FAX : 850-487-7046
Email: MedicalMarijuanaUse@flhealth.gov
Website: www.knowthefactsmmj.com

Florida HEALTH OMMU