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## **Health Quality Subcommittee**

**Thursday, February 7, 2013  
2:00 PM - 4:00 PM  
306 HOB**

**Will Weatherford  
Speaker**

**Kenneth L. "Ken" Roberson  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Health Quality Subcommittee

**Start Date and Time:** Thursday, February 07, 2013 02:00 pm  
**End Date and Time:** Thursday, February 07, 2013 04:00 pm  
**Location:** 306 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 171 Disposition of Human Remains by Rooney  
HB 9 Involuntary Examinations under the Baker Act by Campbell  
HB 239 Practice of Optometry by Caldwell  
HB 115 Professional Licensure of Military Veterans by Department of Health by Santiago  
HB 83 Infant Death by Santiago

Presentations by the Department of Health:

- Reorganization and Efficiency Measures since the passage of CS/CS/CS/HB 1263 (2012)
- The Roles and Functions of County Health Departments

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Wednesday, February 6, 2013.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, February 6, 2013.

**NOTICE FINALIZED on 01/31/2013 16:01 by Iseminger.Bobbye**

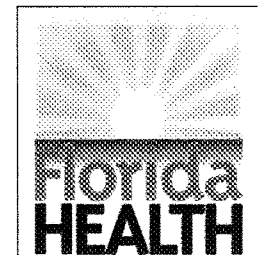


# COUNTY HEALTH DEPARTMENTS

**Lillian Rivera, RN, MSN, PhD**  
***Administrator,***

**Miami-Dade County Health Department**

*Protect, promote and improve the health of all people in Florida.*



# STATE HEALTH DEPARTMENT

State Health Department is a unit of state government with overarching responsibility for protecting, promoting and improving the health of the state's population.

*Protect, promote and improve the health of all people in Florida.*



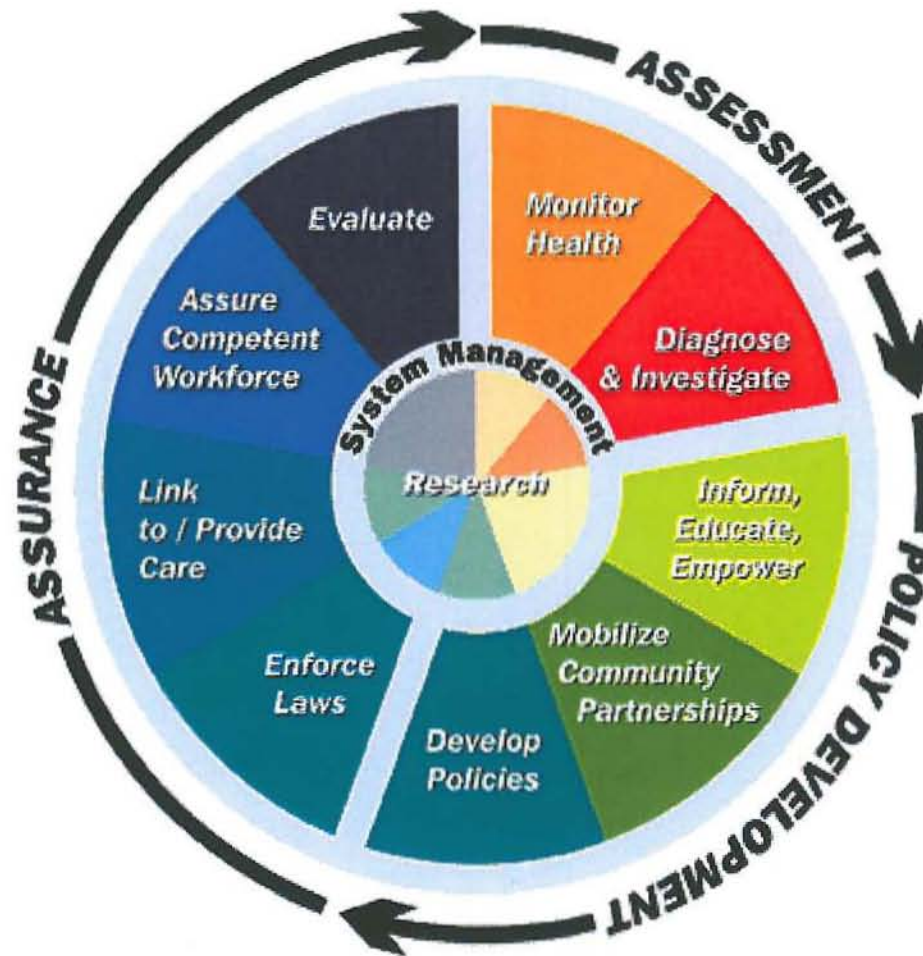
# COUNTY HEALTH DEPARTMENTS

Creating and maintaining conditions that keep all Floridians and visitors healthy.

*Protect, promote and improve the health of all people in Florida.*



# CONCEPTUAL FRAMEWORK FOR COUNTY HEALTH DEPARTMENTS



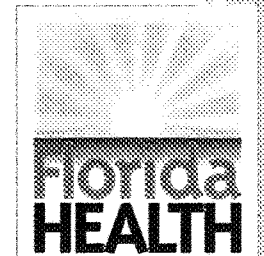
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# PROTECTING FLORIDA'S PUBLIC HEALTH



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# **SAFEGUARDING FLORIDA FROM HEALTH THREATS**

**2009**

H1N1 Pandemic Influenza

**2010**

Deepwater Horizon Oil Spill

**2012**

Tuberculosis

Dengue Fever

Hurricane Response – Tropical Storm Isaac

Fungal Meningitis

**2013**

Influenza

New Strain of Norovirus

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# COUNTY HEALTH DEPARTMENT CATEGORIZATION

CHDs are categorized according to county population, number of FTEs and funding

- Small (mostly rural – 32 CHDs)
- Medium (13 CHDs)
- Large (17 CHDs)
- Metro (5 CHDs – Broward, Dade, Orange, Palm Beach, Pinellas)

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# COUNTY HEALTH DEPARTMENT SERVICES

- Community Health Promotion
  - Women, Infants and Children (WIC)
  - Maternal./child health/ family planning
  - School health
  - Tobacco
- Immunizations
- Sexually Transmitted Diseases (STD) screening and treatment
- HIV/AIDS screening
- Tuberculosis control
- Disease surveillance
- Public health preparedness
- Vital records
- Environmental health

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# COUNTY HEALTH DEPARTMENT SERVICES DEPENDENT UPON LOCAL NEEDS

- Sick care for minor episodic illnesses and injuries
- HIV/AIDS medical care
- Prenatal care
- Dental care
- Well child screening
- Refugee health

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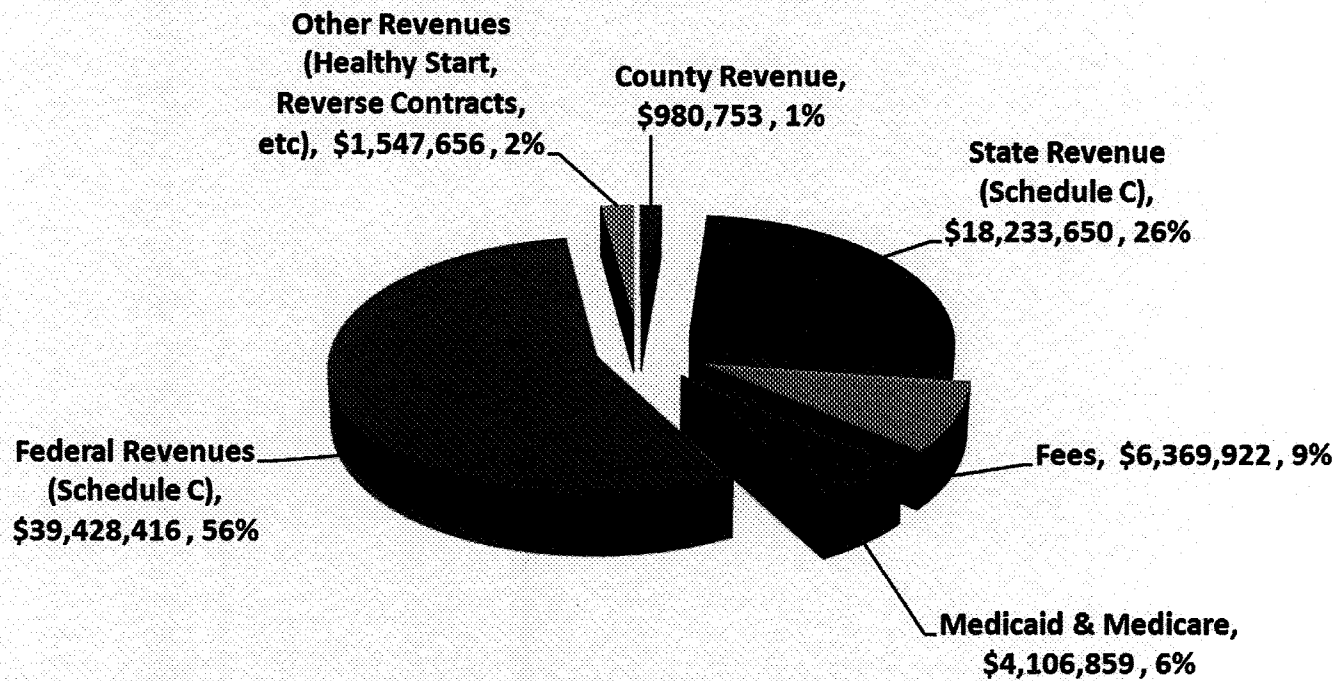
# COUNTY HEALTH DEPARTMENT FUNDING SOURCES

- State General Revenue
- Federal Funds
- State Fees
- Medicaid
- Allocable Revenue
- County Tax
- County Fees
- Local Contributions

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**Miami-Dade County Health Department  
Estimated Revenues FY 12-13  
\$70,667,256**



■ County Revenue

■ Fees

■ Federal Revenues (Schedule C)

■ State Revenue (Schedule C)

■ Medicaid & Medicare

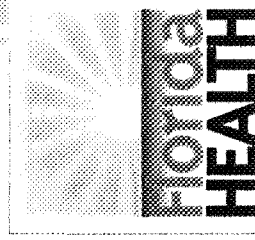
■ Other Revenues (Healthy Start, Reverse Contracts, etc)

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# Questions?

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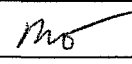


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 171 Disposition of Human Remains

**SPONSOR(S):** Rooney, Jr. and others

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 370

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

### SUMMARY ANALYSIS

The disposition of human remains in Florida is regulated pursuant to part II, of ch. 406, F.S. This part of law provides authority to the Anatomical Board of the State of Florida (Board), to collect and distribute human remains for medical education and research. The bill provides:

- Revised procedures for registration of certificates of death and medical certification of causes of death;
- Modified procedures for reporting and disposition of unclaimed human remains;
- For a funeral director licensed under ch. 497, F.S., to become a legally authorized person, to authorize arterial embalming, and transfer unclaimed remains to the Board, without liability;
- Clarification regarding the transfer of eligible veterans, or spouses or dependents of veterans of the U.S. Armed Forces, U.S. Reserve Forces or National Guard, to national cemeteries;
- Authority for boards of county commissioners to develop policies for the final disposition of unclaimed and indigent remains;
- An exemption from approval from the Board to transmit human remains, for a non-transplant anatomical donation organization that has been accredited by the American Association of Tissue Banks (AATB);
- That non-transplant anatomical donation organizations be AATB accredited by October 1, 2014;
- For the University of Florida to audit the Board once every three years, or sooner as required, and to report the audit to the Department of Financial Services;
- For the removal of the sunset provision related to submission of affidavits to the Board by entities accredited by the American Association of Museums;
- That the Board can be a donee of anatomical gifts under ch. 765, F.S.;
- Modified procedures for handling of cremated remains of a veteran;
- Repeal of s. 406.54, F.S., related to bodies claimed after delivery to the Board; and
- Provides numerous new definitions and makes conforming changes to chapters 406 and 497, F.S.

The bill has an insignificant, negative fiscal impact to the state and no fiscal impact to local governments.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

##### Office of Vital Statistics

The Florida Vital Statistics Act authorizes the Department of Health (DOH) to establish an Office of Vital Statistics (Office), which is responsible for the uniform and efficient registration, compilation, storage, and preservation of all vital records<sup>1</sup> in Florida.<sup>2</sup> The Office is required to:

- Procure the complete registration of all vital records in each registration district and in the Office.
- Uniformly enforce the law throughout the state.
- Establish registration districts throughout the state, which districts may be consolidated or subdivided to facilitate registration.
- Appoint a local registrar of vital statistics for each registration district in the state.
- Investigate cases of irregularity or violation of law, and all local registrars of vital statistics must assist DOH in such investigations. When necessary, DOH must report cases of violations to the state attorney in the registration district in which the violation occurs.
- Approve all forms used in registering, recording, certifying, and preserving vital records, and no other forms may be used other than those approved by DOH. DOH is responsible for the careful examination of the certificates received monthly from the local registrars and marriage certificates and dissolution of marriage reports received from the circuit and county courts.
- Prepare and publish an annual report of vital statistics.
- Appoint one or more suitable persons to act as subregistrars, who are authorized to receive death certificates and fetal death certificates and to issue burial permits.
- Accept, use, and produce all records, reports, and documents necessary in paper or electronic form, and adopt and enforce all rules necessary for the acceptance, use, production, issuance, recording, maintenance, and processing of such records, reports, and documents.
- By rule require that forms, documents, and information submitted to DOH in the creation or amendment of a vital record be under oath.

##### Death Certificates

A dead body is defined as a human body or such parts of a human body from the condition of which it reasonably may be concluded that death recently occurred.<sup>3</sup>

Section 382.008, F.S., sets forth the requirements for certificates of death. A certificate of death is required to be filed within 5 days of the death and prior to final disposition with the local registrar of the district in which the death occurred so the death may be recorded. Final disposition means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body.<sup>4</sup>

Furthermore, the funeral director<sup>5</sup> who first assumes custody of a dead body is required to file the certificate of death. In the absence of the funeral director, the physician or other person in attendance at or after the death is required to file the certificate of death or fetal death. The physician must within

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<sup>1</sup> "Vital records" or "records" are certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or name change. See s. 382.002(16), F.S.

<sup>2</sup> S. 382.003, F.S.

<sup>3</sup> S. 382.002(4), F.S.

<sup>4</sup> S. 382.002(8), F.S.

<sup>5</sup> "Funeral director" is a licensed funeral director or direct disposer licensed pursuant to ch. 497, F.S., or other person who first assumes custody of or effects the final disposition of a dead body. See s. 382.002(9), F.S.

72 hours after receipt of a death, certify the cause of death and make it available to the funeral director. The medical certification is completed by the physician in charge of the decedent's care for the illness or condition which resulted in death, the physician in attendance at the time of death or immediately before or after such death, or the medical examiner if cause of death determination is required.<sup>6</sup>

### **Medical Examiners and Investigating Deaths**

Section 406.11, F.S., governs when the medical examiner must investigate the circumstances involving the death of a human being. The medical examiner of the district in which the death occurred or the body was found is required to determine the cause of death and is required perform such examinations, investigations, and autopsies as he or she shall deem necessary or as shall be requested by the state attorney: When any person dies in the state:

- Of criminal violence.
- By accident.
- By suicide.
- Suddenly, when in apparent good health.
- Unattended by a practicing physician or other recognized practitioner.
- In any prison or penal institution.
- In police custody.
- In any suspicious or unusual circumstance.
- By criminal abortion.
- By poison.
- By disease constituting a threat to public health.
- By disease, injury, or toxic agent resulting from employment.

### **Burial-Transit Permit and Conveyance of Anatomical Remains**

Section 382.006, F.S., requires the funeral director who first assumes custody of a dead body to obtain a burial-transit permit prior to final disposition and within 5 days after death. The application for a burial-transit permit must be signed by the funeral director and include the funeral director's license number. The funeral director is required to attest on the application that he or she has contacted the physician's or medical examiner's office and has received assurance that the physician or medical examiner will provide medical certification of the cause of death within 72 hours after receipt of the death certificate from the funeral director. A burial-transit permit is issued by the local registrar or subregistrar of the registration district in which the death occurred or the body was found. The burial-transit permit is required to accompany the body to the place of final disposition. If the body is transported outside the state, the permit is required to accompany the dead body to its destination.<sup>7</sup>

Part II, of ch. 406, F.S., regulates the disposition of dead human bodies in the state of Florida. This chapter provides for the transfer of unclaimed bodies to the state Anatomical Board (Board),<sup>8</sup> and from the Board to Florida medical and dental schools, teaching hospitals, medical institutions and health-related teaching programs that require the use of anatomical material for study.<sup>9</sup> The Board is authorized to collect fees to defray expenses, can receive additional public or private moneys for expenses, and can reimburse any person who delivers anatomical remains to the Board.<sup>10</sup> Additionally, the Board is permitted to contract, and is annually audited by the Department of Financial Services (DFS).<sup>11</sup>

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<sup>6</sup> S. 382.011, F.S.

<sup>7</sup> S. 382.006(4), F.S.

<sup>8</sup> S. 406.50, F.S.

<sup>9</sup> The Board is also given the discretionary authority to provide cadavers to recognized associations of licensed embalmers or funeral directors, or the examining boards of medical and dental schools. S. 406.57, F.S.

<sup>10</sup> S. 406.58, F.S.

<sup>11</sup> *Id.*

The Board is located at the University of Florida College of Medicine Health Science Center,<sup>12</sup> and comprised of representatives from the medical schools in the state.<sup>13</sup> The Board's purpose is to provide cadavers, and parts thereof, to teaching and research programs in Florida. The Board must hold a body for at least 48 hours before it can be used for medical science.<sup>14</sup>

Section 406.56, F.S., provides the Board with the authority to accept a body that has been donated through a will, to be given to a Florida medical or dental school. Such an anatomical gift is provided for in part V, of ch. 765, F.S. These provisions of law outline the specific process for donation, and require that persons who wish to donate their body for transplant or anatomical study memorialize their intent by signing an organ donor card, registering with the online donor database, or completing an advance directive or other document.<sup>15</sup>

The bartering, selling and trading of human remains is prohibited in the state of Florida, punishable by a misdemeanor of the first degree.<sup>16</sup> Additionally, the transmission or conveyance of such anatomical remains outside the state is a first degree misdemeanor.<sup>17</sup> However, a statutory exception exists for recognized Florida medical or dental schools, which allows these institutions to transfer or convey human remains outside the state for research or other specific purposes. Human remains may be conveyed into and out of the state, for medical education or research purposes, by a person, institution, or organization that has received prior approval from the Board.<sup>18</sup>

### **The American Association of Tissue Banks and Accreditation**

The American Association of Tissue Banks (AATB) is an organization that promulgates industry standards and accredits tissue banks in both the United States and Canada.<sup>19</sup> Membership is voluntary, and the initial accreditation fee is \$3,000, with an annual fee that is determined by volume and ranges from \$3,250— \$75,000.<sup>20</sup> The AATB requires onsite inspections every three years.<sup>21</sup> In January 2012, the AATB developed an accreditation standard for Non-transplant Anatomical Donation Organizations (NADO).<sup>22</sup> A NADO stores human remains for the purposes of research, rather than transplant.

According to the AATB, an accredited NADO facilitates a Non-Transplant Anatomical Donation (NTAD) by overseeing referrals, obtaining informed consent or authorization, acquisition, traceability, transport, assessing donor acceptability, preparation, packaging, labeling, storage, release, evaluating intended use, distribution, and final disposition of an NTAD. As of February 2013, the AATB has accredited five NADOs in the U.S. and of these, only one is located in Florida.<sup>23</sup> In medical research and education, the donation of human remains is critical to the advancement of new techniques, and NADOs are a key component of this market.<sup>24</sup>

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<sup>12</sup> S. 406.50, F.S. The anatomical board was created by the Legislature at the University of Florida in 1996, by ch. 96-251, L.O.F. Prior to 1996, the Division of Universities of the Department of Education was responsible for these functions.

<sup>13</sup> Anatomical Board of the State of Florida, [www.med.ufl.edu/anatbd/](http://www.med.ufl.edu/anatbd/), last visited February 5, 2013.

<sup>14</sup> S. 406.52, F.S.

<sup>15</sup> S. 765.514, F.S.

<sup>16</sup> S. 406.61(1), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Founded in 1976, the AATB has produced best practice standards for the operation of tissue banks since 1984. The association also provides an educational network for member organizations to encourage the dissemination of new practices. AATB, *About Us*, [www.aatb.org/About-AATB](http://www.aatb.org/About-AATB), last visited February 5, 2013.

<sup>20</sup> AATB currently accredits 127 tissue banks in the U.S. There are currently 14 organizations in Florida that are accredited by the AATB. AATB, *Accredited Bank Search*, <http://www.aatb.org/index.asp?bid=15>, last visited February 5, 2013.

<sup>21</sup> AATB, *Accreditation Policies for Transplant Tissue Banks*, [www.aatb.org/Accreditation-Policies](http://www.aatb.org/Accreditation-Policies), last visited February 5, 2013.

<sup>22</sup> *Id.*

<sup>23</sup> *Supra* at note 20.

<sup>24</sup> See e.g., National Institutes of Health, "NIH launches Genotype-Tissue Expression project,"

[www.nih.gov/news/health/oct2010/nhgri-07.htm](http://www.nih.gov/news/health/oct2010/nhgri-07.htm), last visited February 5, 2013, regarding a federal grant awarded to understand how

## **EFFECT OF PROPOSED CHANGES**

### **Section One – Definition of Final Disposition**

The bill amends s. 382.002, F.S., to revise the definition of final disposition. The bill adds that an anatomical donation of a dead body is considered final disposition. This clarifies that an anatomical donation is the equivalent of burying, cremating or interring a body.

### **Section Two – Burial Permit**

The bill amends s. 382.006, F.S., to add the term department, meaning the DOH. This change broadens the organizations that are authorized to issue a burial-transit permit to include the DOH, not just the local registrar or subregistrar.

### **Section Three – Death Registration**

The bill amends s. 382.008, F.S., expanding the individuals who are authorized to file the certificate of death to include the district medical examiner of the county in which the death occurred or the body was found. The bill also allows the medical certification of the cause of death to be furnished to the funeral director via electronic transfer. According to DOH, this change conforms to the 2012 implementation of the Electronic Death Registration System.<sup>25</sup>

Additionally, the bill clarifies who is required to complete the certificate of cause of death by specifying how to determine a decedent's primary care physician. The bill rewords the definition of physician to include a specific definition for a "primary" or "attending physician" to mean a physician who treated the decedent through examination, medical advice, or medication during the 12 months preceding the date of death.

The bill deletes current law which states that "a physician in charge of the decedent's care for the illness or condition which resulted in death, or the physician in attendance at the time of death or immediately before or after death is required to complete the certificate of cause of death."

### **Section Four – Cause of Death Determination**

The bill amends s. 382.011, F.S., making conforming changes by adding the terms "primary" and "attending physician." Additionally, the bill increases the timeframe by which the medical examiner must determine cause of death under suspect circumstances governed under s. 406.11, F.S., from 30 days to 12 months after the decedent was last treated. The bill also adds identical language that is currently found s. 406.11, F.S., which specifies that the medical examiner of the county in which the "death occurred or the body was found" is responsible for determining the cause of death.

### **Section Five – Definitions**

The bill creates s. 406.49, F.S., a definition section for part II, of ch. 406, F.S., providing a definition of "unclaimed remains." Additionally, the bill cross-references the definitions of "anatomical board" and "indigent person" from existing sections of ch. 406, F.S., and provides that "cremated remains," "final disposition," "human remains," "remains" and "legally authorized person" have the same meaning as s. 497.005, F.S., the definition section for ch. 497, F.S., called the "Florida Funeral, Cemetery, and Consumer Services Act." Conforming changes are made throughout ch. 406, F.S., to change "disposition" to "final disposition."

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genetic variation interacts with disease. *See also*, International Institute for the Advancement of Medicine, *Researcher Articles*, [www.iiam.org/researcherArticles.php](http://www.iiam.org/researcherArticles.php), last visited February 5, 2013, references the use of donated tissue for research.

<sup>25</sup> Department of Health Bill Analysis of HB 171, dated February 1, 2013, on file with the Health Quality Subcommittee staff.

## **Section Six – Unclaimed Remains Disposition**

This section of the bill amends s. 406.50, F.S., directing any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at public expense to notify the Board, unless:

- The remains are decomposed or mutilated by wounds;
- An autopsy is performed on the remains;
- The remains contain a contagious disease;
- A legally authorized person objects to use of the remains for medical education or research; or
- The deceased person was a veteran, or the spouse or dependent child of a veteran of the U.S. Armed Forces, U.S. Reserve Forces or National Guard, and eligible for burial in a national cemetery.

The bill removes the notification exception for death by a crushing injury. This is because crushed remains likely have limited utility in an educational setting.

The bill clarifies existing law requiring determination of a veteran's eligibility for burial in a national cemetery, pursuant to 38 C.F.R. s. 38.620.

The bill provides for a funeral director licensed under ch. 497, F.S., to assume the responsibility of a legally authorized person for unclaimed remains, when no family exists or is available. After 24 hours from the time of death, the funeral director may authorize arterial embalming for the purposes of storage and transfer of the unclaimed remains to the Board. The bill releases a funeral director from liability for damages, when acting in accordance with the law.

The bill clarifies that before the final disposition of unclaimed remains occurs, the person or entity in charge or control of the remains must make a reasonable effort to determine the identity of the deceased person, including contacting the National Cemetery Scheduling Office.

The bill provides that if the identity of the unclaimed remains cannot be ascertained, the remains may not be:

- Cremated;
- Donated as an anatomical gift;
- Buried at sea; or
- Removed from the state.

If the Board does not accept unclaimed remains, the county in which the remains are discovered or where the death occurred is authorized to bury or cremate the entire remains. The bill provides that a board of county commissioners may develop policies and procedures for the final disposition of unclaimed remains by resolution or ordinance.

The bill repeals existing law related to competing claims for the same unclaimed remains by legally authorized persons. Precedence for competing claims to direct disposition of remains is provided for in s. 497.005, F.S., the definition of "legally authorized person."

## **Section Seven – Disposition of Unclaimed Deceased Veterans**

This section of the bill amends s. 406.51, F.S., to provide conforming changes to include the term "final disposition," and update a reference to the federal regulation for burial eligibility in a national cemetery.

## **Section Eight - Retention of Human Remains before Use; Claim after Delivery to Anatomical Board; Procedures for Unclaimed Remains or Remains of Indigent Persons**

The bill substantially rewords s. 406.52, F.S., which relates to the retention of human remains, and a process for reclaiming the remains from the Board. The following changes to current law are made:

- Human remains may be embalmed by the Board when received;
- At any point prior to use for medical education or research, a legally authorized person may reclaim the remains from the Board, after payment of the Board's expenses incurred for transporting, embalming and storing the remains;
- The Board is authorized to reject unclaimed or indigent remains for any reason;
- County boards of commissioners are authorized to, by resolution or ordinance, prescribe policies and procedures for the burial or cremation of the unclaimed remains of an indigent person whose remains are found or whose death occurred in the county; and
- Funeral directors licensed under ch. 497, F.S., are relieved from liability for burying or cremating these remains, at the written direction of a county board of commissioners.

### **Section Nine - Unclaimed Remains of Indigent Person; Exemption from Notice to the Anatomical Board**

Section 406.53, F.S., also is substantially reworded by the bill. Notification of the Board at the death of an indigent by counties is changed by removing the exceptions for instances where:

- The death was caused by crushing injuries;
- The deceased had a contagious disease; or
- A friend or representative of a fraternal organization of which the deceased was a member, or a representative of a charitable or a religious organization, or governmental agency which was providing residential care to the indigent person claims the body for burial and assumes the expense.

The bill adds new exceptions to the requirement for notification of the Board for bodies mutilated by wounds, and for notifications already made and certified by funeral directors, and clarifies that provisions relating to veterans includes the spouse or dependent child of a veteran eligible for burial in a national cemetery.

The bill also deletes current law which directs the DOH to collect burial fees for remains identified as their clients.<sup>26</sup> The bill also deletes a duplicative definition of "indigent," which is defined in s. 406.49, F.S.

### **Section Ten - Contracts for Delivery of Human Remains after Death Prohibited**

The bill amends s. 406.55, F.S., changing the word "body" to "human remains" and rewording the existing statute.

### **Section Eleven - Acceptance of Human Remains under Will**

Section 406.56, F.S., is amended to change "the advancement of medical science" to "medical education and research" and reword the existing statute.

### **Section Twelve - Distribution of Human Remains**

The bill amends s. 406.57, F.S., allowing accredited colleges of mortuary science, rather than recognized associations of licensed embalmers or funeral directors, to be loaned remains for educational or research purposes.

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<sup>26</sup> The Department of Health retains the capacity to assess fees for services, subject to s. 402.33, F.S.  
**STORAGE NAME:** h0171.HQS  
**DATE:** 2/5/2013

### **Section Thirteen - Fees; Authority to Accept Additional Funds; Annual Audit**

The bill amends s. 406.58, F.S., to reflect the changes to s. 406.57, F.S., and eliminates associations as a source of fees to be collected by the Board. The bill also limits the Board's ability to provide reimbursement for the transportation of remains to funeral establishments licensed under ch. 497, F.S.

The bill provides for the University of Florida to audit the Board every three years, or sooner as required, and to send the results of the audit to DFS.

### **Section Fourteen - Institutions Receiving Human Remains**

This section contains rewording of s. 406.59, F.S., and removes associations from the list of entities allowed to receive human remains.

### **Section Fifteen - Disposition of Human Remains after Use**

This section amends s. 406.60, F.S., and allows the disposal of human remains, or any part thereof, by either the Board, or a cinerator facility licensed under ch. 497, F.S., by cremation when such remains are deemed no longer of value to medical or dental education or research.

### **Section Sixteen - Selling, Buying, Bartering, or Conveying Human Remains Outside or Within State Prohibited; Exceptions; Penalty**

The bill amends s. 406.61, F.S., providing an exemption from approval from the Board, for a NADO that has been accredited by the AATB. The bill specifies that a NADO must be accredited by October 1, 2014.

The bill provides that for human remains received in this state, either by the anatomical board or a NADO, must be accompanied by burial-transit permit. The remains may not be dissected, disarticulated or segmented until approval has been given by the county medical examiner and received specific written consent from an authorized person representing the decedent.

The bill clarifies language related to the prohibition of offering an inducement for anatomical donation. The bill defines valuable consideration, and provides that the definition does not include costs related to cremation, transportation or removal services.

The bill also removes a sunset provision regarding submission of affidavits to the Board by entities accredited by the American Association of Museums.

### **Section Seventeen – Final Disposition**

The bill provides under s. 497.005, F.S., that anatomical donation is to be final disposition of a body. This would mean that donation is the equivalent of cremating or interring a body.

### **Section Eighteen – Handling of Embalmed Bodies**

The bill amends s. 497.382, F.S., clarifying that funeral establishments, direct disposal establishment, cinerator facility, and centralized embalming facility must complete a prescribed monthly form that is signed by the embalmer that contains the name of the deceased and other information required by rule. The forms must be maintained on premises for inspection by the Division of Funeral, Cemetery, and Consumer Services within the DFS.



## **Section Nineteen – Cremation Procedure**

The bill amends s. 497.607, F.S., specifying that a reasonable effort must be made prior to disposal of cremated remains to determine whether the remains are those of a veteran, spouse, or dependent child of a veteran who may be eligible for burial in a national cemetery due to military service in the U.S. Armed Forces, U.S. Reserve Forces or National Guard. If the remains are those of an eligible person, then the funeral or direct disposal establishment is required to arrange for interment of the cremated remains in a national cemetery. The bill specifies that reasonable effort includes contacting the National Cemetery Scheduling Office, the county veterans' service office, the regional office of the U.S. Department of Veterans Affairs, or a veterans' service organization. The bill defines a "veterans' service organization," as an association, corporation, or other entity that qualifies as a federally tax exempt organization that is organized for the benefit of the veterans' burial and interment and recognized by the Memorial Affairs Division of the U.S. Department of Veterans Affairs; or a member or employee of a non-profit entity that facilitates in the identification, recovery, and interment of unclaimed cremated remains of veterans.

The funeral or direct disposal establishment may use the assistance of a veterans' service organization and is not liable for any damages resulting from the release of required information to determine eligibility as long as they are acting in good faith. The bill specifies that funeral or direct disposal establishments are not required to:

- Determine whether the cremated remains are those of a veteran if a legally authorized person states that decedent was not a veteran.
- Relinquish possession of the cremated remains to a veterans' service organization if the entity is informed by a legally authorized person that the decedent did not desire any funeral, ceremony, or interment-related services recognizing the decedent's service as a veteran.

## **Section Twenty - Donees; Purposes for which Anatomical Gifts May be Made**

The Board is added to s. 765.513, F.S., as an entity that can become a donee of anatomical gifts of whole bodies for medical or dental education or research.

## **Section Twenty-One - Bodies May be Claimed after Delivery to the Anatomical Board**

The bill repeals s. 406.54, F.S., which allowed human remains to be claimed from the Board by friends, members of fraternal, charitable or religious entities, as other provisions of the law<sup>27</sup> provide a process for claiming remains by legally authorized persons.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 382.002, F.S., relating to definitions.

**Section 2.** Amends s. 382.006, F.S., relating to burial-transit permit.

**Section 3.** Amends s. 382.008, F.S., relating to death and fetal death registration.

**Section 4.** Amends s. 382.011, F.S., relating to medical examiner determination of cause of death.

**Section 5.** Creates s. 406.49, F.S., relating to definitions.

**Section 6.** Amends s. 406.50, F.S., relating to unclaimed remains; disposition, procedure.

**Section 7.** Amends s. 406.51, F.S., relating to final disposition of unclaimed deceased veterans; contract requirements.

**Section 8.** Amends s. 406.52, F.S., relating to retention of human remains before use; claim after delivery to anatomical board; procedures for unclaimed remains of an indigent person.

**Section 9.** Amends s. 406.53, F.S., relating to unclaimed remains of indigent persons; exemption from notice to the anatomical board.

**Section 10.** Amends s. 406.55, F.S., relating to contracts for delivery of human remains after death prohibited.

<sup>27</sup> Ss. 406.50, 406.51, and 406.60, F.S.

- Section 11.** Amends s. 406.56, F.S., relating to acceptance of human remains under will.
- Section 12.** Amends s. 406.57, F.S., relating to distribution of human remains.
- Section 13.** Amends s. 406.58, F.S., relating to fees; authority to accept additional funds; annual audit.
- Section 14.** Amends s. 406.59, F.S., relating to institutions receiving human remains.
- Section 15.** Amends s. 406.60, F.S., relating to disposition of human remains after use.
- Section 16.** Amends s. 406.61, F.S., relating to selling, buying, bartering, or conveying human remains outside or within state prohibited; exceptions; penalty.
- Section 17.** Amends s. 497.005, F.S., relating to definitions.
- Section 18.** Amends s. 497.382, F.S., relating to reports of cases embalmed and bodies handled.
- Section 19.** Amends s. 497.607, F.S., relating to cremation; procedure required.
- Section 20.** Amends s. 765.513, F.S., relating to donees; purposes for which anatomical gifts may be made.
- Section 21.** Repeals s. 406.54, F.S., relating to bodies may be claimed after delivery to anatomical board.
- Section 22.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:  
None.
- 2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

### D. FISCAL COMMENTS:

The Office of Vital Statistics within the DOH, states that the proposed language will necessitate the training of county health department staff, physicians, funeral directors, and medical examiners on the death registration process, but will not require additional staffing. Thus, DOH can absorb the increased workload within existing resources.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

On line 289, there appears to be a word missing. The line reads "county department of the county in which the death occurred or..."

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
2           An act relating to disposition of human remains;  
3           amending s. 382.002, F.S.; revising definitions for  
4           purposes of the Florida Vital Statistics Act; amending  
5           s. 382.006, F.S.; authorizing the Department of Health  
6           to issue burial-transit permits; amending s. 382.008,  
7           F.S.; revising procedures for the registration of  
8           certificates of death or fetal death and the medical  
9           certification of causes of death; providing a  
10          definition; amending s. 382.011, F.S.; extending the  
11          time by which certain deaths must be referred to the  
12          medical examiner for investigation; creating s.  
13          406.49, F.S.; providing definitions; amending s.  
14          406.50, F.S.; revising procedures for the reporting  
15          and disposition of unclaimed remains; prohibiting  
16          certain uses or dispositions of the remains of  
17          deceased persons whose identities are not known;  
18          limiting the liability of licensed funeral directors  
19          who authorize the embalming of unclaimed remains under  
20          certain circumstances; amending s. 406.51, F.S.;  
21          requiring that local governmental contracts for the  
22          final disposition of unclaimed remains comply with  
23          certain federal regulations; amending s. 406.52, F.S.;  
24          revising procedures for the anatomical board's  
25          retention of human remains before their use; providing  
26          for claims by, and the release of human remains to,  
27          legally authorized persons after payment of certain  
28          expenses; authorizing county ordinances or resolutions

29 for the final disposition of the unclaimed remains of  
 30 indigent persons; limiting the liability of certain  
 31 licensed persons for cremating or burying human  
 32 remains under certain circumstances; amending s.  
 33 406.53, F.S.; revising exceptions from requirements  
 34 for notice to the anatomical board of the death of  
 35 indigent persons; deleting a requirement that the  
 36 Department of Health assess fees for the burial of  
 37 certain bodies; amending ss. 406.55, 406.56, and  
 38 406.57, F.S.; conforming provisions; amending s.  
 39 406.58, F.S.; requiring audits of the financial  
 40 records of the anatomical board; conforming  
 41 provisions; amending s. 406.59, F.S.; conforming  
 42 provisions; amending s. 406.60, F.S.; authorizing  
 43 certain facilities to dispose of human remains by  
 44 cremation; amending s. 406.61, F.S.; revising  
 45 provisions prohibiting the selling or buying of human  
 46 remains or the transmitting or conveying of such  
 47 remains outside the state; providing penalties;  
 48 excepting accredited nontransplant anatomical donation  
 49 organizations from requirements for the notification  
 50 of and approval from the anatomical board for the  
 51 conveyance of human remains for specified purposes;  
 52 requiring that nontransplant anatomical donation  
 53 organizations be accredited by a certain date;  
 54 requiring that human remains received by the  
 55 anatomical board be accompanied by a burial-transit  
 56 permit; requiring approval by the medical examiner and

57 consent of certain persons before the dissection,  
 58 segmentation, or disarticulation of such remains;  
 59 prohibiting the offer of any monetary inducement or  
 60 other valuable consideration in exchange for human  
 61 remains; providing a definition; deleting an expired  
 62 provision; conforming provisions; amending s. 497.005,  
 63 F.S.; revising a definition for purposes of the  
 64 Florida Funeral, Cemetery, and Consumer Services Act;  
 65 amending s. 497.382, F.S.; revising certain reporting  
 66 requirements for funeral establishments, direct  
 67 disposal establishments, cinerator facilities, and  
 68 centralized embalming facilities; amending s. 497.607,  
 69 F.S.; providing requirements for the disposal of  
 70 unclaimed cremated remains by funeral or direct  
 71 disposal establishments; limiting the liability of  
 72 funeral or direct disposal establishments and  
 73 veterans' service organizations related to the release  
 74 of information required to determine the eligibility  
 75 for internment in a national cemetery of the unclaimed  
 76 cremated remains of a veteran; providing definitions;  
 77 amending s. 765.513, F.S.; revising the list of donees  
 78 who may accept anatomical gifts and the purposes for  
 79 which such a gift may be used; repealing s. 406.54,  
 80 F.S., relating to claims of bodies after delivery to  
 81 the anatomical board; providing an effective date.

82  
 83  
 84

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

85 Section 1. Subsections (8) and (9) of section 382.002,  
 86 Florida Statutes, are amended to read:

87 382.002 Definitions.—As used in this chapter, the term:

88 (8) "Final disposition" means the burial, interment,  
 89 cremation, removal from the state, anatomical donation, or other  
 90 authorized disposition of a dead body or a fetus as described in  
 91 subsection (7). In the case of cremation, dispersion of ashes or  
 92 cremation residue is considered to occur after final  
 93 disposition; the cremation itself is considered final  
 94 disposition. In the case of anatomical donation of a dead body,  
 95 the donation itself is considered final disposition.

96 (9) "Funeral director" means a licensed funeral director  
 97 or direct disposer licensed pursuant to chapter 497 ~~or other~~  
 98 ~~person~~ who first assumes custody of or effects the final  
 99 disposition of a dead body or a fetus as described in subsection  
 100 (7).

101 Section 2. Subsection (2) of section 382.006, Florida  
 102 Statutes, is amended to read:

103 382.006 Burial-transit permit.—

104 (2) A burial-transit permit shall be issued by the  
 105 department or the local registrar or subregistrar of the  
 106 registration district in which the death occurred or the body  
 107 was found. A burial-transit permit may ~~shall~~ not be issued:

108 (a) Until a complete and satisfactory certificate of death  
 109 or fetal death is ~~has been~~ filed in accordance with the  
 110 requirements of this chapter and adopted rules, unless the  
 111 funeral director provides adequate assurance that a complete and  
 112 satisfactory certificate will be so registered.

113 (b) Except under conditions prescribed by the department,  
 114 if the death occurred from some disease that ~~which~~ is deemed  
 115 ~~held~~ by the department to be infectious, contagious, or  
 116 communicable and dangerous to the public health.

117 Section 3. Paragraph (a) of subsection (2) and subsections  
 118 (3), (4), and (5) of section 382.008, Florida Statutes, are  
 119 amended to read:

120 382.008 Death and fetal death registration.—

121 (2)(a) The funeral director who first assumes custody of a  
 122 dead body or fetus shall file the certificate of death or fetal  
 123 death. In the absence of the funeral director, the physician or  
 124 other person in attendance at or after the death or the district  
 125 medical examiner of the county in which the death occurred or  
 126 the body was found shall file the certificate of death or fetal  
 127 death. The person who files the certificate shall obtain  
 128 personal data from the next of kin or the best qualified person  
 129 or source available. The medical certification of cause of death  
 130 shall be furnished to the funeral director, either in person or  
 131 via certified mail or electronic transfer, by the physician or  
 132 medical examiner responsible for furnishing such information.  
 133 For fetal deaths, the physician, midwife, or hospital  
 134 administrator shall provide any medical or health information to  
 135 the funeral director within 72 hours after expulsion or  
 136 extraction.

137 (3) Within 72 hours after receipt of a death or fetal  
 138 death certificate from the funeral director, the medical  
 139 certification of cause of death shall be completed and made  
 140 available to the funeral director by the decedent's primary or



141 ~~attending physician in charge of the decedent's care for the~~  
 142 ~~illness or condition which resulted in death, the physician in~~  
 143 ~~attendance at the time of death or fetal death or immediately~~  
 144 ~~before or after such death or fetal death, or, if s. 382.011~~  
 145 applies, the district medical examiner of the county in which  
 146 the death occurred or the body was found ~~if the provisions of s.~~  
 147 ~~382.011 apply.~~ The primary or attending physician or medical  
 148 examiner shall certify over his or her signature the cause of  
 149 death to the best of his or her knowledge and belief. As used in  
 150 this section, the term "primary or attending physician" means a  
 151 physician who treated the decedent through examination, medical  
 152 advice, or medication during the 12 months preceding the date of  
 153 death.

154 (a) The local registrar may grant the funeral director an  
 155 extension of time upon a good and sufficient showing of any of  
 156 the following conditions:

- 157 1. An autopsy is pending.
- 158 2. Toxicology, laboratory, or other diagnostic reports  
 159 have not been completed.
- 160 3. The identity of the decedent is unknown and further  
 161 investigation or identification is required.

162 (b) If the decedent's primary or attending physician or  
 163 district medical examiner of the county in which the death  
 164 occurred or the body was found ~~has indicated~~ that he  
 165 or she will sign and complete the medical certification of cause  
 166 of death, but will not be available until after the 5-day  
 167 registration deadline, the local registrar may grant an  
 168 extension of 5 days. If a further extension is required, the

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169 funeral director must provide written justification to the  
 170 registrar.

171 (4) If the local registrar grants ~~has granted~~ an extension  
 172 of time to provide the medical certification of cause of death,  
 173 the funeral director shall file a temporary certificate of death  
 174 or fetal death which shall contain all available information,  
 175 including the fact that the cause of death is pending. The  
 176 decedent's primary or attending physician or the district  
 177 medical examiner of the county in which the death occurred or  
 178 the body was found shall provide an estimated date for  
 179 completion of the permanent certificate.

180 (5) A permanent certificate of death or fetal death,  
 181 containing the cause of death and any other information that  
 182 ~~which~~ was previously unavailable, shall be registered as a  
 183 replacement for the temporary certificate. The permanent  
 184 certificate may also include corrected information if the items  
 185 being corrected are noted on the back of the certificate and  
 186 dated and signed by the funeral director, physician, or district  
 187 medical examiner of the county in which the death occurred or  
 188 the body was found, as appropriate.

189 Section 4. Subsection (1) of section 382.011, Florida  
 190 Statutes, is amended to read:

191 382.011 Medical examiner determination of cause of death.-

192 (1) In the case of any death or fetal death due to causes  
 193 or conditions listed in s. 406.11, any ~~or where~~ the death that  
 194 occurred more than 12 months ~~30 days~~ after the decedent was last  
 195 treated by a primary or attending physician as defined in s.  
 196 382.008(3) ~~unless the death was medically expected as certified~~

197 ~~by an attending physician~~, or any death for which ~~where~~ there is  
 198 reason to believe that the death may have been due to an  
 199 unlawful act or neglect, the funeral director or other person to  
 200 whose attention the death may come shall refer the case to the  
 201 district medical examiner of the county ~~district~~ in which the  
 202 death occurred or the body was found for investigation and  
 203 determination of the cause of death.

204 Section 5. Section 406.49, Florida Statutes, is created to  
 205 read:

206 406.49 Definitions.—As used in this part, the term:

207 (1) "Anatomical board" means the anatomical board of the  
 208 state headquartered at the University of Florida Health Science  
 209 Center.

210 (2) "Cremated remains" has the same meaning as provided in  
 211 s. 497.005.

212 (3) "Final disposition" has the same meaning as provided  
 213 in s. 497.005.

214 (4) "Human remains" or "remains" has the same meaning as  
 215 provided in s. 497.005.

216 (5) "Indigent person" means a person whose family income  
 217 does not exceed 100 percent of the current federal poverty  
 218 guidelines prescribed for the family's household size by the  
 219 United States Department of Health and Human Services.

220 (6) "Legally authorized person" has the same meaning as  
 221 provided in s. 497.005.

222 (7) "Unclaimed remains" means human remains that are not  
 223 claimed by a legally authorized person, other than a medical

224 examiner or the board of county commissioners, for final  
 225 disposition at the person's expense.

226 Section 6. Section 406.50, Florida Statutes, is amended to  
 227 read:

228 406.50 Unclaimed ~~dead bodies or human~~ remains;  
 229 disposition, procedure.—

230 (1) A person or entity that comes ~~All public officers,~~  
 231 ~~agents, or employees of every county, city, village, town, or~~  
 232 ~~municipality and every person in charge of any prison, morgue,~~  
 233 ~~hospital, funeral parlor, or mortuary and all other persons~~  
 234 ~~coming into possession, charge, or control of~~ unclaimed ~~any dead~~  
 235 ~~human body or remains~~ that ~~which are unclaimed or which~~ are  
 236 required to be buried or cremated at public expense shall ~~are~~  
 237 ~~hereby required to notify,~~ immediately notify, the anatomical  
 238 board, unless:

239 (a) The unclaimed remains are decomposed or mutilated by  
 240 wounds;

241 (b) An autopsy is performed on the remains;

242 (c) The remains contain ~~whenever any such body, bodies, or~~  
 243 ~~remains come into its possession, charge, or control.~~  
 244 ~~Notification of the anatomical board is not required if the~~  
 245 ~~death was caused by crushing injury, the deceased had a~~  
 246 ~~contagious disease;~~

247 (d) A legally authorized person, ~~an autopsy was required~~  
 248 ~~to determine cause of death, the body was in a state of severe~~  
 249 ~~decomposition, or a family member objects to use of the~~ remains  
 250 ~~body~~ for medical education or ~~and~~ research; or

251 (e) The deceased person was a veteran of the United States

252 Armed Forces, United States Reserve Forces, or National Guard  
 253 and is eligible for burial in a national cemetery or was the  
 254 spouse or dependent child of a veteran eligible for burial in a  
 255 national cemetery.

256 (2)(1) Before the final disposition of unclaimed remains,  
 257 the person or entity in charge or control of the ~~dead body or~~  
 258 human remains shall make a reasonable effort to determine:

259 (a) Determine the identity of the deceased person and  
 260 ~~shall further make a reasonable effort to~~ contact any relatives  
 261 of ~~the such~~ deceased person.

262 (b) Determine whether ~~or not~~ the deceased person is  
 263 eligible under 38 C.F.R. s. 38.620 for entitled to burial in a  
 264 national cemetery as a veteran of the armed forces and, if  
 265 eligible so, to cause the deceased person's remains or cremated  
 266 remains to be delivered to a national cemetery shall make  
 267 ~~arrangements for such burial services in accordance with the~~  
 268 ~~provisions of 38 C.F.R.~~

269  
 270 For purposes of this subsection, "a reasonable effort" includes  
 271 contacting the National Cemetery Scheduling Office, the county  
 272 veterans service office, or the regional office of the United  
 273 States Department of Veterans Affairs.

274 (3)(2) Unclaimed remains ~~Such dead human bodies as~~  
 275 ~~described in this chapter~~ shall be delivered to the anatomical  
 276 board as soon as possible after death. When no family exists or  
 277 is available, a funeral director licensed under chapter 497 may  
 278 assume the responsibility of a legally authorized person and  
 279 may, after 24 hours have elapsed since the time of death,

280 authorize arterial embalming for the purposes of storage and  
 281 delivery of unclaimed remains to the anatomical board. A funeral  
 282 director licensed under chapter 497 is not liable for damages  
 283 under this subsection.

284 (4) The remains of a deceased person whose identity is not  
 285 known may not be cremated, donated as an anatomical gift, buried  
 286 at sea, or removed from the state.

287 (5) If the anatomical board does not accept the unclaimed  
 288 remains, the board of county commissioners or its designated  
 289 county department of the county in which the death occurred or  
 290 the remains were found may authorize and arrange for the burial  
 291 or cremation of the entire remains. A board of county  
 292 commissioners may by resolution or ordinance, in accordance with  
 293 applicable laws and rules, prescribe policies and procedures for  
 294 final disposition of unclaimed remains.

295 (6) ~~(3)~~ This part does not ~~Nothing herein shall~~ affect the  
 296 right of a medical examiner to hold human ~~such dead body or~~  
 297 remains for the purpose of investigating the cause of death or  
 298 ~~nor shall this chapter affect~~ the right of any court of  
 299 competent jurisdiction to enter an order affecting the  
 300 disposition of such ~~body or~~ remains.

301 ~~(4) In the event more than one legally authorized person~~  
 302 ~~claims a body for interment, the requests shall be prioritized~~  
 303 ~~in accordance with s. 732.103.~~

304  
 305 ~~For purposes of this chapter, the term "anatomical board" means~~  
 306 ~~the anatomical board of this state located at the University of~~  
 307 ~~Florida Health Science Center, and the term "unclaimed" means a~~

308 ~~dead body or human remains that is not claimed by a legally~~  
 309 ~~authorized person, as defined in s. 497.005, for interment at~~  
 310 ~~that person's expense.~~

311 Section 7. Section 406.51, Florida Statutes, is amended to  
 312 read:

313 406.51 Final disposition of unclaimed deceased veterans;  
 314 contract requirements.—Any contract by a local governmental  
 315 entity for the final disposition disposal of unclaimed human  
 316 remains must provide for compliance with s. 406.50(2) 406.50(1)  
 317 and require that the procedures in 38 C.F.R. s. 38.620, relating  
 318 to disposition of unclaimed deceased veterans, are be followed.

319 Section 8. Section 406.52, Florida Statutes, is amended to  
 320 read:

321 (Substantial rewording of section. See  
 322 s. 406.52, F.S., for present text.)

323 406.52 Retention of human remains before use; claim after  
 324 delivery to anatomical board; procedures for unclaimed remains  
 325 of indigent persons.—

326 (1) The anatomical board shall keep in storage all human  
 327 remains that it receives for at least 48 hours before allowing  
 328 their use for medical education or research. Human remains may  
 329 be embalmed when received. The anatomical board may, for any  
 330 reason, refuse to accept unclaimed remains or the remains of an  
 331 indigent person.

332 (2) At any time before their use for medical education or  
 333 research, human remains delivered to the anatomical board may be  
 334 claimed by a legally authorized person. The anatomical board  
 335 shall release the remains to the legally authorized person after

336 payment of the anatomical board's expenses incurred for  
 337 transporting, embalming, and storing the remains.

338 (3) (a) A board of county commissioners may by resolution  
 339 or ordinance, in accordance with applicable laws and rules,  
 340 prescribe policies and procedures for the burial or cremation of  
 341 the entire unclaimed remains of an indigent person whose death  
 342 occurred, or whose remains were found, in the county.

343 (b) A person licensed under chapter 497 is not liable for  
 344 any damages resulting from cremating or burying such human  
 345 remains at the written direction of the board of county  
 346 commissioners or its designee.

347 Section 9. Section 406.53, Florida Statutes, is amended to  
 348 read:

349 (Substantial rewording of section. See  
 350 s. 406.53, F.S., for present text.)

351 406.53 Unclaimed remains of indigent person; exemption  
 352 from notice to the anatomical board.—A board of county  
 353 commissioners or its designated county department that receives  
 354 a report of the unclaimed remains of an indigent person,  
 355 notwithstanding s. 406.50(1), is not required to notify the  
 356 anatomical board of the remains if:

357 (1) The indigent person's remains are decomposed or  
 358 mutilated by wounds or if an autopsy is performed on the  
 359 remains;

360 (2) A legally authorized person or a relative by blood or  
 361 marriage claims the remains for final disposition at his or her  
 362 expense or, if such relative or legally authorized person is  
 363 also an indigent person, in a manner consistent with the



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364 policies and procedures of the board of county commissioners of  
 365 the county in which the death occurred or the remains were  
 366 found;

367 (3) The deceased person was a veteran of the United States  
 368 Armed Forces, United States Reserve Forces, or National Guard  
 369 and is eligible for burial in a national cemetery or was the  
 370 spouse or dependent child of a veteran eligible for burial in a  
 371 national cemetery; or

372 (4) A funeral director licensed under chapter 497  
 373 certifies that the anatomical board has been notified and either  
 374 accepted or declined the remains.

375 Section 10. Section 406.55, Florida Statutes, is amended  
 376 to read:

377 406.55 Contracts for delivery of human remains ~~body~~ after  
 378 death prohibited.—The anatomical board may not enter is  
 379 ~~specifically prohibited from entering~~ into any contract, oral or  
 380 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be  
 381 paid to any living person in exchange for ~~which~~ the delivery of  
 382 that person's remains ~~body of said person shall be delivered to~~  
 383 the anatomical board when the ~~such living~~ person dies.

384 Section 11. Section 406.56, Florida Statutes, is amended  
 385 to read:

386 406.56 Acceptance of human remains ~~bodies~~ under will.—If  
 387 any person ~~being~~ of sound mind executes ~~shall execute~~ a will  
 388 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~  
 389 ~~advancement of~~ medical education or research ~~science~~ and the  
 390 ~~such~~ person dies within the geographical limits of the state,

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391 the anatomical board may ~~is hereby empowered to~~ accept and  
 392 receive the person's remains ~~such body~~.

393 Section 12. Section 406.57, Florida Statutes, is amended  
 394 to read:

395 406.57 Distribution of human remains ~~dead bodies~~.—The  
 396 anatomical board or its duly authorized agent shall take and  
 397 receive human remains ~~the bodies~~ delivered to it as provided in  
 398 under the provisions of this chapter and shall:

399 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the  
 400 medical and dental schools, teaching hospitals, medical  
 401 institutions, and health-related teaching programs that require  
 402 cadaveric material for study; or

403 (2) Loan the remains ~~same may be loaned for examination or~~  
 404 ~~study purposes~~ to accredited colleges of mortuary science  
 405 ~~recognized associations of licensed embalmers or funeral~~  
 406 ~~directors,~~ or medical or dental examining boards for educational  
 407 or research purposes ~~at the discretion of the anatomical board~~.

408 Section 13. Section 406.58, Florida Statutes, is amended  
 409 to read:

410 406.58 Fees; authority to accept additional funds; annual  
 411 audit.—

412 (1) The anatomical board may:

413 (a) Adopt ~~is empowered to prescribe~~ a schedule of fees to  
 414 be collected from the institutions ~~institution or association~~ to  
 415 which the human remains ~~bodies, as described in this chapter,~~  
 416 are distributed or loaned to defray the costs of obtaining and  
 417 preparing the remains ~~such bodies~~.

418 (b) ~~(2) The anatomical board is hereby empowered to Receive~~

419 money from public or private sources, in addition to the fees  
 420 collected from the institutions ~~institution or association~~ to  
 421 which human remains ~~the bodies~~ are distributed, to be used to  
 422 defray the costs of embalming, handling, shipping, storing,  
 423 cremating, and otherwise storage, ~~cremation, and other costs~~  
 424 ~~relating to the~~ obtaining and using the remains. ~~use of such~~  
 425 ~~bodies as described in this chapter; the anatomical board is~~  
 426 ~~empowered to~~

427 (c) Pay or reimburse the reasonable expenses, as  
 428 determined by the anatomical board, incurred by a funeral  
 429 establishment or removal service licensed under chapter 497 for  
 430 the removal, storage, and transportation any person delivering  
 431 ~~the bodies as described in this chapter~~ to the anatomical board  
 432 of unclaimed human remains. ~~and is further empowered to~~

433 (d) Enter into contracts and perform such other acts as  
 434 are necessary for to the proper performance of its duties. ~~+~~

435 (2) The anatomical board shall keep a complete record of  
 436 all fees and other financial transactions. The University of  
 437 Florida shall conduct an audit of the financial records of the  
 438 anatomical board at least once every 3 years or more frequently  
 439 as the university deems necessary. Within 90 days after  
 440 completing an audit, the university shall provide a copy of the  
 441 audit to the Department of Financial Services. The university  
 442 may contract with a licensed public accounting firm to provide  
 443 for the audit, which firm may be paid from the fees collected by  
 444 ~~the of said anatomical board shall be kept and audited annually~~  
 445 ~~by the Department of Financial Services, and a report of such~~  
 446 ~~audit shall be made annually to the University of Florida.~~

447 Section 14. Section 406.59, Florida Statutes, is amended  
 448 to read:

449 406.59 Institutions receiving human remains ~~bodies~~. ~~A No~~  
 450 university, school, college, teaching hospital, or institution  
 451 ~~may not, or association shall be allowed or permitted to receive~~  
 452 any human remains from the anatomical board ~~such body or bodies~~  
 453 ~~as described in this chapter~~ until its facilities are ~~have been~~  
 454 inspected and approved by the anatomical board. Human remains  
 455 ~~All such bodies~~ received by such university, school, college,  
 456 teaching hospital, or institution ~~may not, or association shall~~  
 457 be used for any no other purpose other ~~than the promotion of~~  
 458 medical education or research ~~science~~.

459 Section 15. Section 406.60, Florida Statutes, is amended  
 460 to read:

461 406.60 Disposition of human remains ~~bodies~~ after use. ~~At~~  
 462 ~~any time~~ When human remains ~~any body or bodies or part or parts~~  
 463 ~~of any body or bodies, as described in this chapter, shall have~~  
 464 been used for, and are not deemed of any no further value to,  
 465 medical or dental education or research ~~science, then the~~  
 466 anatomical board or a cinerator facility licensed under chapter  
 467 497 ~~person or persons having charge of said body or parts of~~  
 468 ~~said body~~ may dispose of the remains or any part thereof by  
 469 cremation.

470 Section 16. Section 406.61, Florida Statutes, is amended  
 471 to read:

472 406.61 Selling, buying, or conveying human remains ~~bodies~~  
 473 outside state prohibited; exceptions; ~~7~~ penalty.-

474 (1) (a) The anatomical board may transport human remains

475 outside the state for educational or scientific purposes. Any  
 476 ~~person who sells or buys any body or parts of bodies as~~  
 477 ~~described in this chapter or any person except a recognized~~  
 478 ~~Florida medical or dental school who transmits or conveys or~~  
 479 ~~causes to be transmitted or conveyed such body or parts of~~  
 480 ~~bodies to any place outside this state commits a misdemeanor of~~  
 481 ~~the first degree, punishable as provided in ss. 775.082 and~~  
 482 ~~775.083. However,~~ This chapter does not prohibit the transport  
 483 of anatomical board from transporting human remains, any part of  
 484 such remains specimens outside the state for educational or  
 485 scientific purposes or prohibit the transport of bodies, parts  
 486 of bodies, or tissue specimens in furtherance of lawful  
 487 examination, investigation, or autopsy conducted pursuant to s.  
 488 406.11.

489 (b) A Any person, institution, or organization that  
 490 conveys human remains bodies or any part thereof parts of bodies  
 491 into or outside out of the state for medical or dental education  
 492 or research purposes must shall notify the anatomical board of  
 493 such intent and receive approval from the board.

494 (c) Notwithstanding paragraph (b), a nontransplant  
 495 anatomical donation organization accredited by the American  
 496 Association of Tissue Banks may convey human remains or any part  
 497 thereof into or outside the state for medical or dental  
 498 education or research purposes without notifying or receiving  
 499 approval from the anatomical board. Effective October 1, 2014, a  
 500 nontransplant anatomical donation organization must be  
 501 accredited by the American Association of Tissue Banks.

502 (d) A person who sells or buys human remains or any part

503 thereof, or a person who transmits or conveys or causes to be  
 504 transmitted or conveyed such remains or part thereof to any  
 505 place outside this state, in violation of this section commits a  
 506 misdemeanor of the first degree, punishable as provided in s.  
 507 775.082 or s. 775.083. This paragraph does not apply to a  
 508 recognized Florida medical or dental school.

509 (2) (a) Human remains received in this state by the  
 510 anatomical board or a nontransplant anatomical donation  
 511 organization must be accompanied by the original burial-transit  
 512 permit issued pursuant to s. 382.007. The remains may not be  
 513 dissected, segmented, or disarticulated until the district  
 514 medical examiner of the county in which the death occurred or  
 515 the remains were found grants approval pursuant to s. 406.11.

516 (b) A nontransplant anatomical donation organization must  
 517 obtain specific written consent for the dissection,  
 518 segmentation, or disarticulation of any part of the remains from  
 519 a person who is authorized under s. 765.512 to give such  
 520 consent. Such consent must conspicuously describe each part of  
 521 the remains that may be dissected, segmented, or disarticulated.

522 (3) A person may not offer in exchange for human remains  
 523 any monetary inducement or other valuable consideration,  
 524 including goods or services, to a donor, a legally authorized  
 525 person, the donor's estate, or any other third party. As used in  
 526 this subsection, the term "valuable consideration" does not  
 527 include, and this subsection does not prohibit, payment or  
 528 reimbursement of the reasonable costs associated with the  
 529 removal, storage, and transportation of human remains, including  
 530 payment or reimbursement of a funeral establishment or removal

531 service licensed under chapter 497 or the reasonable costs after  
 532 use, including payment or reimbursement for the disposition of  
 533 human remains pursuant to s. 406.60.

534 ~~(4)(2)~~ An ~~Any~~ entity accredited by the American  
 535 Association of Museums may convey plastinated human remains  
 536 ~~bodies~~ or any part thereof within, parts of bodies into, or  
 537 outside ~~out of~~ the state for exhibition and public educational  
 538 purposes without the consent of the anatomical board if the  
 539 accredited entity:

540 (a) Notifies the anatomical board of the conveyance and  
 541 the duration and location of the exhibition at least 30 days  
 542 before the intended conveyance.

543 (b) Submits to the anatomical board a description of the  
 544 remains ~~bodies~~ or any part thereof ~~parts of bodies~~ and the name  
 545 and address of the company providing the remains ~~bodies~~ or any  
 546 part thereof ~~parts of bodies~~.

547 (c) Submits to the anatomical board documentation that the  
 548 remains or each part thereof ~~body~~ was donated by the decedent or  
 549 his or her next of kin for purposes of plastination and public  
 550 exhibition, or, in lieu of such documentation, an affidavit  
 551 stating that the remains or each part thereof ~~body~~ was donated  
 552 directly by the decedent or his or her next of kin for such  
 553 purposes to the company providing the remains ~~body~~ and that such  
 554 company has a donation form on file for the remains ~~body~~.

555 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~  
 556 ~~documentation or affidavit required under paragraph (2)(c), for~~  
 557 ~~a plastinated body that, before July 1, 2009, was exhibited in~~  
 558 ~~this state by any entity accredited by the American Association~~

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559 ~~of Museums, such an accredited entity may submit an affidavit to~~  
 560 ~~the board stating that the body was legally acquired and that~~  
 561 ~~the company providing the body has acquisition documentation on~~  
 562 ~~file for the body. This subsection expires January 1, 2012.~~

563 Section 17. Subsection (32) of section 497.005, Florida  
 564 Statutes, is amended to read:

565 497.005 Definitions.—As used in this chapter, the term:

566 (32) "Final disposition" means the final disposal of a  
 567 dead human body by earth interment, aboveground interment,  
 568 cremation, burial at sea, anatomical donation, or delivery to a  
 569 medical institution for lawful dissection if the medical  
 570 institution or entity receiving the anatomical donation assumes  
 571 responsibility for disposition after use pursuant to s. 406.60  
 572 disposal. ~~The term "Final disposition"~~ does not include the  
 573 disposal or distribution of cremated remains and residue of  
 574 cremated remains.

575 Section 18. Section 497.382, Florida Statutes, is amended  
 576 to read:

577 497.382 Reports of cases embalmed and bodies handled.—

578 (1) Each funeral establishment, direct disposal  
 579 establishment, cinerator facility, and centralized embalming  
 580 facility shall record monthly ~~report~~ on a form prescribed and  
 581 furnished by the licensing authority the name of the deceased  
 582 and such other information as may be required by rule with  
 583 respect to each dead human body embalmed or otherwise handled by  
 584 the establishment or facility. Such forms shall be signed  
 585 monthly by the embalmer who performs the embalming, if the body  
 586 is embalmed, and the funeral director in charge of the



587 establishment or facility or by the direct disposer who disposes  
 588 of the body and shall be maintained at the business premises of  
 589 the establishment or facility for inspection by division staff.  
 590 The licensing authority shall prescribe by rule the procedures  
 591 for preparing and retaining in submitting such forms  
 592 documentation. Reports required by this subsection shall be  
 593 filed by the 20th day of each month for final dispositions  
 594 handled the preceding month.

595 (2) Funeral directors performing disinterments shall  
 596 record monthly on the form specified in subsection (1) and  
 597 pursuant to report, using a form and procedures prescribed  
 598 specified by rule, the name of the deceased and such other  
 599 information as may be required by rule with respect to each dead  
 600 human body disinterred.

601 Section 19. Subsection (2) of section 497.607, Florida  
 602 Statutes, is amended to read:

603 497.607 Cremation; procedure required.—

604 (2) (a) With respect to any person who intends to provide  
 605 for the cremation of the deceased, if, after a period of 120  
 606 days from the time of cremation the cremated remains have not  
 607 been claimed, the funeral or direct disposal establishment may  
 608 dispose of the cremated remains. Such disposal shall include  
 609 scattering them at sea or placing them in a licensed cemetery  
 610 scattering garden or pond or in a church columbarium or  
 611 otherwise disposing of the remains as provided by rule.

612 (b) A reasonable effort shall be made before such disposal  
 613 to determine whether the cremated remains are those of a veteran  
 614 of the United States Armed Forces, United States Reserve Forces,

615 or National Guard eligible for burial in a national cemetery or  
 616 a spouse or dependent child of a veteran eligible for burial in  
 617 a national cemetery.

618 (c) If the unclaimed cremated remains are those of an  
 619 eligible veteran or the spouse or dependent child of an eligible  
 620 veteran, the funeral or direct disposal establishment shall  
 621 arrange for the interment of the cremated remains in a national  
 622 cemetery. A funeral or direct disposal establishment may use the  
 623 assistance of a veterans' service organization for this purpose.  
 624 A funeral or direct disposal establishment or veterans' service  
 625 organization acting in good faith is not liable for any damages  
 626 resulting from the release of required information to determine  
 627 eligibility for interment.

628 (d) This subsection does not require a funeral or direct  
 629 disposal establishment to:

630 1. Determine whether the cremated remains are those of a  
 631 veteran if the funeral or direct disposal establishment is  
 632 informed by a legally authorized person that the decedent was  
 633 not a veteran.

634 2. Relinquish possession of the cremated remains to a  
 635 veterans' service organization if the funeral or direct disposal  
 636 establishment is informed by a legally authorized person that  
 637 the decedent did not desire any funeral, ceremony, or interment-  
 638 related services recognizing the decedent's service as a  
 639 veteran.

640 (e) For purposes of this subsection, the term:

641 1. "Reasonable effort" includes contacting the National  
 642 Cemetery Scheduling Office, the county veterans service office,

643 the regional office of the United States Department of Veterans  
 644 Affairs, or a veterans' service organization.

645 2. "Veterans' service organization" means an association,  
 646 corporation, or other entity that qualifies under s. 501(c)(3)  
 647 or s. 501(c)(19) of the Internal Revenue Code as a tax-exempt  
 648 organization, that is organized for the benefit of veterans'  
 649 burial and interment, and that is recognized by the Memorial  
 650 Affairs Division of the United States Department of Veterans  
 651 Affairs. The term includes a member or employee of an eligible  
 652 nonprofit veterans' corporation, association, or entity that  
 653 specifically assists in facilitating the identification,  
 654 recovery, and interment of the unclaimed cremated remains of  
 655 veterans.

656 Section 20. Subsection (1) of section 765.513, Florida  
 657 Statutes, is amended to read:

658 765.513 Donees; purposes for which anatomical gifts may be  
 659 made.—

660 (1) The following persons or entities may become donees of  
 661 anatomical gifts of bodies or parts of them for the purposes  
 662 stated:

663 (a) Any procurement organization or accredited medical or  
 664 dental school, college, or university for education, research,  
 665 therapy, or transplantation.

666 (b) Any individual specified by name for therapy or  
 667 transplantation needed by him or her.

668 (c) The anatomical board as defined in s. 406.49 for  
 669 donation of the whole body for medical or dental education or  
 670 research.

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671 |           Section 21. Section 406.54, Florida Statutes, is repealed.

672 |           Section 22. This act shall take effect July 1, 2013.



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		

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

4  
5

**Amendment**

6  
7  
8

Remove line 171 and insert:  
(4) If the department or local registrar grants has  
~~granted~~ an extension



Amendment No. 2

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		

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1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee

3 Representative Rooney offered the following:

**Amendment (with directory amendment)**

6 Remove line 222 and insert:

7 (7) "Nontransplant anatomical donation organization" means  
8 a tissue bank or other organization that facilitates  
9 nontransplant anatomical donation, including referral, obtaining  
10 informed consent or authorization, acquisition, traceability,  
11 transport, assessing donor acceptability, preparation,  
12 packaging, labeling, storage, release, evaluating intended use,  
13 distribution, and final disposition of nontransplant anatomical  
14 donations.

15 (8) "Unclaimed remains" means human remains that are not

17 -----

**D I R E C T O R Y   A M E N D M E N T**

19 Remove line 204 and insert:



Amendment No. 2

20 Section 5. Section 406.49, Florida Statutes, is created in  
21 part II of chapter 406, Florida Statutes, to



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

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

**Amendment**

6 Remove lines 520-521 and insert:  
 7 consent. Such consent must expressly state that the remains may  
 8 undergo long-term preservation or extensive preparation,  
 9 including, but not limited to, removal of the head, arms, legs,  
 10 hands, feet, spine, organs, tissues, or fluids.





Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4  
5 **Amendment**

6 Remove line 522 and insert:  
7 (3) A person, institution, or organization may not offer  
8 in exchange for human remains



Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4  
5       **Amendment**

6       Remove line 668 and insert:

7       (c) The anatomical board or a nontransplant anatomical  
8       donation organization, as defined in s. 406.49, for



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 239 Practice of Optometry  
**SPONSOR(S):** Caldwell  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Holt	O'Callaghan <i>MOS</i>
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

HB 239 amends ch. 463, F.S., the Optometry Practice Act, authorizing certified optometrists to administer and prescribe ocular pharmaceutical agents. Currently, a certified optometrist is only permitted to administer and prescribe topical ocular pharmaceutical agents. The bill revises the definitions of "certified optometrist" and "optometry" to reflect the broader authority.

The bill requires a certified optometrist to complete additional coursework and pass an examination that is jointly developed by the Florida Medical Association and the Florida Optometric Association. The first examination must be presented by July 1, 2013. Moreover, the bill makes conforming changes throughout and states that the formulary of ocular pharmaceutical agents consists of agents that are appropriate to treat and diagnose ocular diseases and disorders. The bill amends the composition of the advisory committee requiring two optometrists to be certified optometrists and amends the Board of Optometry's rule-making authority.

The bill authorizes a certified optometrist to perform any eye examination, including a dilated examination, if required or authorized under laws related to pugilistic exhibitions.

The bill defines "practitioner" under s. 893.02, F.S., to include optometrists who have obtained a federal controlled substance registry number to prescribe, administer, dispense, mix, or otherwise prepare a controlled substance. However, the bill prohibits a certified optometrist from administering or prescribing a Schedule I or Schedule II controlled substance.

Finally, the bill requires a licensed clinical laboratory to accept a human specimen submitted for examination by a licensed optometrist.

The bill has an insignificant, negative fiscal impact to the state and no fiscal impact to local governments.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Optometrists and Ophthalmologists

Optometrists are the primary health care professionals for the eye. Optometrists examine, diagnose, treat, and manage diseases and injuries of the visual system as well as identify systemic conditions which affect visual health. Optometrists may prescribe certain medications, vision therapy, and corrective lenses, but may not perform surgical procedures in Florida.<sup>1</sup>

Optometrist training involves an undergraduate degree and completion of a 4-year program at a college of optometry. Some optometrist's complete residencies to gain more specialized knowledge, but residency training is not required for licensure or practice.<sup>2</sup>

Ophthalmologists are medical doctors who specialize in diseases of the eye. Ophthalmologists provide a full spectrum of eye care, from prescribing corrective lenses and medications to performing eye surgery. Ophthalmologists also care for patients with more advanced and complicated diseases than do optometrists. Ophthalmologist training involves an undergraduate degree, 4 years of medical school, and completion of at least 4 years of residency training in ophthalmology.<sup>3</sup>

Florida law requires optometrists diagnosing a patient with certain diseases to refer such patients to "physician skilled in the diseases of the eye" (ophthalmologists) or for further treatment.<sup>4</sup> Additionally, an optometrist is required to promptly advise a patient to seek an evaluation by an ophthalmologist for diagnosis and possible treatment whenever the optometrist is informed by the patient of the sudden onset of spots or "floaters" with loss of all or part of the visual field.<sup>5</sup> Optometrists are also required to maintain the names of at least three physicians, clinics, or hospitals to which they may refer patients who experience adverse drug reactions.<sup>6</sup>

##### Administration of Medications by Optometrists in Florida

Florida is one of three states that do not authorize optometrists to prescribe oral medications for their patients. Of the 47 states that grant optometrists the authority to prescribe oral medications, 43 allow optometrists to prescribe controlled substances.<sup>7</sup> In Florida, licensed optometrists, if they are appropriately certified by the Board of Optometry (Board), may administer and prescribe topical ocular pharmaceutical agents. If an optometrist diagnoses a condition that would be best addressed with an oral medication, the patient must see another practitioner, such as an ophthalmologist, [or hospital

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<sup>1</sup> Section 463.014(4), F.S.

<sup>2</sup> American Optometric Association, *What is a Doctor of Optometry?*, available at: <http://www.aoa.org/x4891.xml> (last visited Feb. 5, 2013).

<sup>3</sup> American Academy of Ophthalmology, *About Ophthalmology and Eye M.D.s.*, available at: <http://www.aao.org/about/eyemds.cfm> (last visited Feb. 5, 2013).

<sup>4</sup> Diagnoses which mandate a referral to an ophthalmologist include angle closure glaucoma, congenital or infantile glaucoma, and infectious corneal diseases that are unresponsive to standard treatment. Section 463.0135, F.S.

<sup>5</sup> Section 463.0135(4), F.S.

<sup>6</sup> Section 463.0135(8), F.S.

<sup>7</sup> The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *Expanding Scope of Practice for Advanced Registered Nurse Practitioners, Physician Assistants, Optometrists, and Dental Hygienists*, December 30, 2010, on file with the Health Quality Subcommittee.

emergency room] for treatment. If an optometrist administers or prescribes a topical pharmaceutical<sup>8</sup>, it must be related to the diagnosis and treatment of ocular conditions and must not require surgery or other invasive techniques for administration. Medications approved for prescription by certified optometrists are listed in a formulary<sup>9</sup> maintained by the Board.<sup>10</sup>

To be certified for prescribing privileges, an optometrist must:<sup>11</sup>

- Complete at least 110 hours of board-approved coursework and clinical training in general and ocular pharmacology at an accredited institution which has facilities for both didactic and clinical instruction in pharmacology. Training already completed by the applicant under an optometry training program provided by a Board-approved school of optometry may be accepted by the Board toward the required coursework and training;
- Complete at least 1 year of supervised experience in differential diagnosis of eye diseases or disorders, which may occur during training or clinical practice;
- Pass part II of the National Board of Examiners in Optometry examination;<sup>12</sup> and
- Pay a \$250 fee.<sup>13</sup>

For over 25 years, certification for prescribing privileges is a required component of the general licensure process for optometrists.<sup>14</sup> Optometrists who are not certified are only authorized to use topical anesthetics for glaucoma examinations.<sup>15</sup>

### Prescribing Controlled Substances

The Drug Enforcement Administration (DEA) within the United States Department of Justice is tasked with monitoring controlled substances and preventing their abuse. Controlled substances fall into five categories, or schedules, depending on their addictive potential. Drug schedules are specified by the DEA in 21 C.F.R. §§ 1308.11-15 and in s. 893.03, F.S.

*Schedule I* controlled substances currently have no accepted medical use in treatment in the United States and therefore may not be prescribed, administered, or dispensed for medical use. These substances have a high potential for abuse and include heroin, lysergic acid diethylamide (LSD), and cannabis.

*Schedule II* controlled substances have a high potential for abuse, which may lead to severe psychological or physical dependence, including morphine and its derivatives, amphetamines, cocaine, and pentobarbital.

*Schedule III* controlled substances have lower abuse potential than Schedule II substances but may still cause psychological or physical dependence. Schedule III substances include products containing less than 15 milligrams (mg) of hydrocodone (such as Vicodin) or less than 90 mg of dihydrocodeine per dose (such as Tylenol #3), ketamine, and anabolic steroids.

*Schedule IV* substances have a low potential for abuse and include propoxyphene (Darvocet), alprazolam (Xanax), and lorazepam (Ativan).

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<sup>8</sup> A topical medication is a medication that is applied to body surfaces such as the skin or mucous membranes to treat ailments via a large range of classes including but not limited to creams, foams, gels, lotions and ointments.

<sup>9</sup> The formulary is listed in Rule 64B13-18.002, F.A.C., and includes agents to dilate and constrict pupils, local anesthetics, antibiotics, anti-inflammatory agents, antihistamines, antivirals, and anti-glaucoma medications. All medications are for topical ocular use only.

<sup>10</sup> Section 463.0055, F.S.

<sup>11</sup> Rule 64B13-10.001, F.A.C.

<sup>12</sup> This examination consists of 60 simulated patient cases to assess the examinee's performance in clinical practice situations, available at: [http://www.optometry.org/part\\_2\\_pam.cfm](http://www.optometry.org/part_2_pam.cfm) (last visited Feb. 5, 2013).

<sup>13</sup> Rule 64B13-6.001(7), F.A.C.

<sup>14</sup> See s. 463.006(1), F.S.; and Department of Health, *Bill Analysis for HB 239 (2013)*, Feb. 1, 2013.

<sup>15</sup> Section 463.0055(1), F.S.

*Schedule V* controlled substances have an extremely low potential for abuse and primarily consist of preparations containing limited quantities of certain narcotics, such as cough syrup.<sup>16</sup>

Any health care professional wishing to prescribe controlled substances must apply for a Federal Controlled Substance Registry Number (DEA number). A DEA number is linked to a state license, which may be suspended or revoked upon any disciplinary action taken against the licensee. The DEA will grant DEA numbers to a wide range of health care professionals, including physicians, nurse practitioners, physician assistants, optometrists, dentists, and veterinarians, but such professionals may only prescribe controlled substances that have been authorized to them under state law. DEA numbers must be renewed every 3 years.<sup>17</sup>

In Florida, only licensed physicians, dentists, veterinarians, naturopaths, and podiatrists are currently permitted to prescribe controlled substances and receive a DEA number. However, they may only prescribe medications that are within the scope of their practice.<sup>18</sup>

### Physicians and Pugilistic Exhibitions

In Florida, the law requires at least one physician to be assigned to each boxing match to observe the physical condition of the participants and advise the commissioner or commission representative in charge of the Florida State Boxing Commission (commission) and the referee of the participants' conditions before, during, and after the match. The commission establishes a schedule of fees for the physician's services. The physician's fee is paid by the promoter of the match attended by the physician. The physician is considered an agent of the commission in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28, F.S.<sup>19</sup>

In addition to any other required examination under law, each participant must be examined by the attending physician at the time of weigh-in. If the physician determines that a participant is physically or mentally unfit to proceed, the physician must notify any commissioner or the commission representative who must immediately cancel the match. The examination must conform to rules adopted by the commission. The result of the examination must be reported in writing signed by the physician and filed with the commission prior to completion of the weigh-in.<sup>20</sup>

### Clinical Laboratories

A clinical laboratory is a location in which body fluids or tissues are analyzed for purposes of the diagnosis, assessment, or prevention of a medical condition. Clinical laboratories may be free-standing facilities, may be part of a hospital, or may be part of a private practitioner's office.<sup>21</sup> Practitioners authorized to operate their own clinical laboratories exclusively to diagnose and treat their own patients are physicians, chiropractors, podiatrists, naturopaths, and dentists. Clinical laboratories must be biennially licensed and inspected by the Agency for Health Care Administration to ensure quality standards in examination of specimens, equipment, sanitation, staffing, and other measures.<sup>22</sup>

A clinical laboratory may examine human specimens at the request of the following licensed practitioners:<sup>23</sup>

- Physicians

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<sup>16</sup> DEA, Office of Diversion Control, *Controlled Substance Schedules*, available at: <http://www.deadiversion.usdoj.gov/21cfr/cfr/2108cfr.htm> (last visited Feb. 5, 2013).

<sup>17</sup> DEA, *Questions and Answers*, available at: <http://www.deadiversion.usdoj.gov/drugreg/faq.htm> (last visited Feb. 5, 2013).

<sup>18</sup> Sections 893.02 and 893.05, F.S.

<sup>19</sup> Section 548.046, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 483.041, F.S.

<sup>22</sup> Section 483.051, F.S.

<sup>23</sup> Section 483.181, F.S.

- Chiropractors
- Podiatrists
- Naturopaths
- Dentists
- Advanced registered nurse practitioners.

Results of laboratory tests must be reported directly to the requesting practitioner. The same price must be charged regardless of what type of practitioner requests the testing.

### **Effect of Proposed Changes**

The bill revises the definition of the terms “certified optometrist” and “optometry” to authorize the administration and prescription of ocular pharmaceutical agents by a practitioner licensed pursuant to ch. 463, F.S. Current law only authorizes the administration and prescription of topical ocular pharmaceutical agents by certified optometrists in the practice of optometry. Numerous conforming changes are made throughout the bill to reflect this new authority.

The bill revises the Board’s rule-making authority, allowing the Board to adopt rules relating to the administration and prescription of ocular pharmaceutical agents. In addition, the bill requires a certified optometrist to complete certain coursework and an examination before the certified optometrist is authorized to administer or prescribe oral ocular pharmaceutical agents. The certified optometrist must complete a course and subsequent examination on general and ocular pharmaceutical agents and the side effects of those agents. For certified optometrists licensed before January 1, 1990, the course must consist of 50 contact hours and 25 of those hours are to be web-based. For certified optometrists licensed on or after January 1, 1990, the course must consist of 20 contact hours and 10 of those hours are to be web-based. The first course and examination must be available by July 1, 2013, and must be administered at least annually thereafter. The Florida Medical Association and the Florida Optometric Association are required to jointly develop and administer the course and examination and must jointly determine the site or sites for the course and examination.

The bill amends the composition of the advisory committee to require the two appointed optometrists to be certified optometrists. Additionally the advisory committee, is required to review, and provide recommendations to the Board regarding, the formulary of ocular pharmaceutical agents for administration and prescription by certified optometrists.

In addition, the bill:

- Authorizes a certified optometrist to perform any eye examination, including a dilated examination, if required or authorized under ch. 548, F.S., relating to pugilistic exhibitions, or rules adopted thereunder;
- Requires a licensed clinical laboratory to accept a human specimen submitted for examination by a licensed optometrist;
- Includes certified optometrists in the definition of the term “practitioner” in s. 893.02, F.S., to regulate the prescription, administration, and dispensing of controlled substances by certified optometrists who hold a valid DEA number; and
- Prohibits a certified optometrist licensed in Florida from administering or prescribing a Schedule I or Schedule II controlled substance.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 463.002, F.S., relating to definitions.

**Section 2.** Amends s. 463.005, F.S., relating to authority of the Board of Optometry.

**Section 3.** Amends s. 463.0055, F.S., relating to administration and prescription of topical ocular pharmaceutical agents; committee.

**Section 4.** Amends s. 463.0057, F.S., relating to optometric faculty certificate.

**Section 5.** Amends s. 463.006, F.S., relating to licensure and certification by examination.



- Section 6.** Amends s. 463.0135, F.S., relating to standards of practice.
- Section 7.** Amends s. 463.014, F.S., relating to certain acts prohibited.
- Section 8.** Amends s. 483.035, F.S., relating to clinical laboratories operated by practitioners for exclusive use; licensure and regulation.
- Section 9.** Amends s. 483.041, F.S., relating to definitions.
- Section 10.** Amends s. 483.181, F.S., relating to acceptance, collection, identification, and examination of specimens.
- Section 11.** Amends s. 893.02, F.S., relating to definitions.
- Section 12.** Amends s. 893.05, F.S., relating to practitioners and persons administering controlled substances in their absence.
- Section 13.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Health reports that it will incur additional costs and workload to implement the provisions of the bill, but anticipates that current resources are adequate to absorb the costs and workload.<sup>24</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certified optometrists, wanting to prescribe and administer ocular pharmaceutical agents, may incur costs associated with the coursework and examination required by the bill.<sup>25</sup>

Patients may experience some cost-savings if they can be treated immediately by an optometrist, without having to be referred to an ophthalmologist for treatment.<sup>26</sup>

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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<sup>24</sup> Department of Health, *Bill Analysis for HB 239 (2013)*, Feb. 1, 2013.

<sup>25</sup> *Id.*

<sup>26</sup> *Supra* Note 7.

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Throughout the bill, the terms "pharmaceutical agents," "ocular pharmaceutical agents," and "oral ocular pharmaceutical agents" are used, which appear to cause inconsistencies. It is unclear what the differences are between the terms.

Lines 220 through 222 of the bill defines "licensed practitioner" under s. 483.041, F.S., to include physicians licensed under ch. 463, F.S., the Optometry Practice Act. In effect, the new definition may be interpreted to mean that ch. 483, F.S., as it relates to licensed practitioners, would only apply to optometrists who are also licensed physicians.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

HB 239

2013

1    A bill to be entitled  
2            An act relating to the practice of optometry; amending  
3            s. 463.002, F.S.; specifying that a certified  
4            optometrist is authorized to administer and prescribe  
5            pharmaceutical agents; amending s. 463.005, F.S.;  
6            authorizing the Board of Optometry to adopt rules  
7            relating to the administration and prescription of  
8            ocular pharmaceutical agents; amending s. 463.0055,  
9            F.S.; requiring a certified optometrist to complete a  
10           course and examination on general and ocular  
11           pharmaceutical agents before administering or  
12           prescribing oral ocular pharmaceutical agents;  
13           specifying the number of required course hours based  
14           on the date of licensure; requiring the Florida  
15           Medical Association and the Florida Optometric  
16           Association to jointly develop and administer the  
17           course and examination; revising provisions relating  
18           to the development of a formulary of pharmaceutical  
19           agents; amending s. 463.0057, F.S.; prohibiting the  
20           holder of an optometric faculty certificate from  
21           administering or prescribing ocular pharmaceutical  
22           agents; amending s. 463.006, F.S.; revising provisions  
23           relating to licensure and certification of  
24           optometrists; amending s. 463.0135, F.S.; authorizing  
25           a certified optometrist to perform certain eye  
26           examinations; amending s. 463.014, F.S.; prohibiting a  
27           licensed practitioner of optometry from providing any  
28           drug for the purpose of treating a systemic disease;

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

hb0239-00

29 amending s. 483.035, F.S.; requiring a clinical  
 30 laboratory operated by a licensed practitioner of  
 31 optometry to be licensed under pt. I of ch. 463, F.S.;  
 32 amending s. 483.041, F.S.; revising the definition of  
 33 the term "licensed practitioner" to include  
 34 optometrists; amending s. 483.181, F.S.; providing for  
 35 an optometrist to accept a human specimen for  
 36 examination, under certain conditions; amending s.  
 37 893.02, F.S.; redefining the term "practitioner" to  
 38 include certified optometrists; amending s. 893.05,  
 39 F.S.; prohibiting a certified optometrist from  
 40 administering or prescribing pharmaceutical agents  
 41 listed in Schedule I or Schedule II of the Florida  
 42 Comprehensive Drug Abuse Prevention and Control Act;  
 43 providing an effective date.

44

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

46

47 Section 1. Paragraph (b) of subsection (3) and subsections  
 48 (4) and (5) of section 463.002, Florida Statutes, are amended to  
 49 read:

50 463.002 Definitions.—As used in this chapter, the term:

51 (3)

52 (b) A licensed practitioner who is not a certified  
 53 optometrist shall be required to display at her or his place of  
 54 practice a sign which states, "I am a Licensed Practitioner, not  
 55 a Certified Optometrist, and I am not able to prescribe ~~topical~~  
 56 ocular pharmaceutical agents."

57 |           (4) "Certified optometrist" means a licensed practitioner  
58 | authorized by the board to administer and prescribe ~~topical~~  
59 | ocular pharmaceutical agents.

60 |           (5) "Optometry" means the diagnosis of conditions of the  
61 | human eye and its appendages; the employment of any objective or  
62 | subjective means or methods, including the administration of  
63 | ~~topical-ocular~~ pharmaceutical agents, for the purpose of  
64 | determining the refractive powers of the human eyes, or any  
65 | visual, muscular, neurological, or anatomic anomalies of the  
66 | human eyes and their appendages; and the prescribing and  
67 | employment of lenses, prisms, frames, mountings, contact lenses,  
68 | orthoptic exercises, light frequencies, and any other means or  
69 | methods, including ~~topical-ocular~~ pharmaceutical agents, for the  
70 | correction, remedy, or relief of any insufficiencies or abnormal  
71 | conditions of the human eyes and their appendages.

72 |           Section 2. Paragraph (g) of subsection (1) of section  
73 | 463.005, Florida Statutes, is amended to read:

74 |           463.005 Authority of the board.—

75 |           (1) The Board of Optometry has authority to adopt rules  
76 | pursuant to ss. 120.536(1) and 120.54 to implement the  
77 | provisions of this chapter conferring duties upon it. Such rules  
78 | shall include, but not be limited to, rules relating to:

79 |           (g) Administration and prescription of ~~topical~~ ocular  
80 | pharmaceutical agents.

81 |           Section 3. Section 463.0055, Florida Statutes, is amended  
82 | to read:

83 |           463.0055 Administration and prescription of ~~topical~~ ocular  
84 | pharmaceutical agents; committee.—

85 (1) (a) Certified optometrists may administer and prescribe  
 86 ~~topical ocular~~ pharmaceutical agents as provided in this section  
 87 for the diagnosis and treatment of ocular conditions of the  
 88 human eye and its appendages without the use of surgery or other  
 89 invasive techniques. However, a licensed practitioner who is not  
 90 certified may use topically applied anesthetics solely for the  
 91 purpose of glaucoma examinations, but is otherwise prohibited  
 92 from administering or prescribing ~~topical ocular~~ pharmaceutical  
 93 agents.

94 (b) Before a certified optometrist may administer or  
 95 prescribe oral ocular pharmaceutical agents, the certified  
 96 optometrist must complete a course and subsequent examination on  
 97 general and ocular pharmaceutical agents and the side effects of  
 98 those agents. For certified optometrists licensed before January  
 99 1, 1990, the course shall consist of 50 contact hours and 25 of  
 100 those hours shall be web-based. For certified optometrists  
 101 licensed on or after January 1, 1990, the course shall consist  
 102 of 20 contact hours and 10 of those hours shall be web-based.  
 103 The first course and examination shall be presented by July 1,  
 104 2013, and shall be administered at least annually thereafter.  
 105 The Florida Medical Association and the Florida Optometric  
 106 Association shall jointly develop and administer a course and  
 107 examination for such purpose and jointly determine the site or  
 108 sites for the course and examination.

109 (2) (a) There is ~~hereby~~ created a committee composed of two  
 110 certified optometrists licensed pursuant to this chapter,  
 111 appointed by the Board of Optometry, two board-certified  
 112 ophthalmologists licensed pursuant to chapter 458 or chapter

113 459, appointed by the Board of Medicine, and one additional  
 114 person with a doctorate degree in pharmacology who is not  
 115 licensed pursuant to chapter 458, chapter 459, or this chapter,  
 116 appointed by the State Surgeon General. The committee shall  
 117 review requests for additions to, deletions from, or  
 118 modifications of a formulary of ~~topical~~ ocular pharmaceutical  
 119 agents for administration and prescription by certified  
 120 optometrists and shall provide to the board advisory opinions  
 121 and recommendations on such requests. The formulary shall  
 122 consist of those ~~topical-ocular~~ pharmaceutical agents which are  
 123 appropriate to treat and diagnose ocular diseases and disorders  
 124 and which the certified optometrist is qualified to use in the  
 125 practice of optometry. The board shall establish, add to, delete  
 126 from, or modify the formulary by rule. Notwithstanding any  
 127 provision of chapter 120 to the contrary, the formulary rule  
 128 shall become effective 60 days from the date it is filed with  
 129 the Secretary of State.

130 (b) The formulary may be added to, deleted from, or  
 131 modified according to the procedure described in paragraph (a).  
 132 Any person who requests an addition, deletion, or modification  
 133 of an authorized ~~topical~~ ocular pharmaceutical agent shall have  
 134 the burden of proof to show cause why such addition, deletion,  
 135 or modification should be made.

136 (c) The State Surgeon General shall have standing to  
 137 challenge any rule or proposed rule of the board pursuant to s.  
 138 120.56. In addition to challenges for any invalid exercise of  
 139 delegated legislative authority, the administrative law judge,  
 140 upon such a challenge by the State Surgeon General, may declare

141 all or part of a rule or proposed rule invalid if it:

142 1. Does not protect the public from any significant and  
143 discernible harm or damages;

144 2. Unreasonably restricts competition or the availability  
145 of professional services in the state or in a significant part  
146 of the state; or

147 3. Unnecessarily increases the cost of professional  
148 services without a corresponding or equivalent public benefit.

149

150 However, there shall not be created a presumption of the  
151 existence of any of the conditions cited in this subsection in  
152 the event that the rule or proposed rule is challenged.

153 (d) Upon adoption of the formulary required by this  
154 section, and upon each addition, deletion, or modification to  
155 the formulary, the board shall mail a copy of the amended  
156 formulary to each certified optometrist and to each pharmacy  
157 licensed by the state.

158 (3) A certified optometrist shall be issued a prescriber  
159 number by the board. Any prescription written by a certified  
160 optometrist for a ~~topical ocular~~ pharmaceutical agent pursuant  
161 to this section shall have the prescriber number printed  
162 thereon.

163 Section 4. Subsection (3) of section 463.0057, Florida  
164 Statutes, is amended to read:

165 463.0057 Optometric faculty certificate.—

166 (3) The holder of a faculty certificate may engage in the  
167 practice of optometry as permitted by this section, but may not  
168 administer or prescribe ~~topical~~ ocular pharmaceutical agents



169 unless the certificateholder has satisfied the requirements of  
 170 s. 463.006(1)(b)4. and 5.

171 Section 5. Subsections (2) and (3) of section 463.006,  
 172 Florida Statutes, are amended to read:

173 463.006 Licensure and certification by examination.—

174 (2) The examination shall consist of the appropriate  
 175 subjects, including applicable state laws and rules and general  
 176 and ocular pharmacology with emphasis on the use ~~topical~~  
 177 ~~application~~ and side effects of ocular pharmaceutical agents.  
 178 The board may by rule substitute a national examination as part  
 179 or all of the examination and may by rule offer a practical  
 180 examination in addition to the written examination.

181 (3) Each applicant who successfully passes the examination  
 182 and otherwise meets the requirements of this chapter is entitled  
 183 to be licensed as a practitioner and to be certified to  
 184 administer and prescribe ~~topical-ocular~~ pharmaceutical agents in  
 185 the diagnosis and treatment of ocular conditions.

186 Section 6. Subsection (10) is added to section 463.0135,  
 187 Florida Statutes, to read:

188 463.0135 Standards of practice.—

189 (10) A certified optometrist is authorized to perform any  
 190 eye examination, including a dilated examination, required or  
 191 authorized by chapter 548 or by rules adopted to implement that  
 192 chapter.

193 Section 7. Subsection (3) of section 463.014, Florida  
 194 Statutes, is amended to read:

195 463.014 Certain acts prohibited.—

196 (3) Prescribing, ordering, dispensing, administering,

197 supplying, selling, or giving any drug for the purpose of  
 198 treating a systemic disease ~~systemic drugs~~ by a licensed  
 199 practitioner is prohibited.

200 Section 8. Subsection (1) of section 483.035, Florida  
 201 Statutes, is amended to read:

202 483.035 Clinical laboratories operated by practitioners  
 203 for exclusive use; licensure and regulation.—

204 (1) A clinical laboratory operated by one or more  
 205 practitioners licensed under chapter 458, chapter 459, chapter  
 206 460, chapter 461, chapter 462, chapter 463, or chapter 466,  
 207 exclusively in connection with the diagnosis and treatment of  
 208 their own patients, must be licensed under this part and must  
 209 comply with the provisions of this part, except that the agency  
 210 shall adopt rules for staffing, for personnel, including  
 211 education and training of personnel, for proficiency testing,  
 212 and for construction standards relating to the licensure and  
 213 operation of the laboratory based upon and not exceeding the  
 214 same standards contained in the federal Clinical Laboratory  
 215 Improvement Amendments of 1988 and the federal regulations  
 216 adopted thereunder.

217 Section 9. Subsection (7) of section 483.041, Florida  
 218 Statutes, is amended to read:

219 483.041 Definitions.—As used in this part, the term:

220 (7) "Licensed practitioner" means a physician licensed  
 221 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or  
 222 chapter 463; a dentist licensed under chapter 466; a person  
 223 licensed under chapter 462; or an advanced registered nurse  
 224 practitioner licensed under part I of chapter 464; or a duly

225 licensed practitioner from another state licensed under similar  
 226 statutes who orders examinations on materials or specimens for  
 227 nonresidents of the State of Florida, but who reside in the same  
 228 state as the requesting licensed practitioner.

229 Section 10. Subsection (5) of section 483.181, Florida  
 230 Statutes, is amended to read:

231 483.181 Acceptance, collection, identification, and  
 232 examination of specimens.—

233 (5) A clinical laboratory licensed under this part must  
 234 accept a human specimen submitted for examination by a  
 235 practitioner licensed under chapter 458, chapter 459, chapter  
 236 460, chapter 461, chapter 462, chapter 463, s. 464.012, or  
 237 chapter 466, if the specimen and test are the type performed by  
 238 the clinical laboratory. A clinical laboratory may only refuse a  
 239 specimen based upon a history of nonpayment for services by the  
 240 practitioner. A clinical laboratory shall not charge different  
 241 prices for tests based upon the chapter under which a  
 242 practitioner submitting a specimen for testing is licensed.

243 Section 11. Subsection (21) of section 893.02, Florida  
 244 Statutes, is amended to read:

245 893.02 Definitions.—The following words and phrases as  
 246 used in this chapter shall have the following meanings, unless  
 247 the context otherwise requires:

248 (21) "Practitioner" means a physician licensed pursuant to  
 249 chapter 458, a dentist licensed pursuant to chapter 466, a  
 250 veterinarian licensed pursuant to chapter 474, an osteopathic  
 251 physician licensed pursuant to chapter 459, a naturopath  
 252 licensed pursuant to chapter 462, a certified optometrist

253 licensed pursuant to chapter 463, or a podiatric physician  
 254 licensed pursuant to chapter 461, provided such practitioner  
 255 holds a valid federal controlled substance registry number.

256 Section 12. Subsection (1) of section 893.05, Florida  
 257 Statutes, is amended to read:

258 893.05 Practitioners and persons administering controlled  
 259 substances in their absence.—

260 (1) A practitioner, in good faith and in the course of his  
 261 or her professional practice only, may prescribe, administer,  
 262 dispense, mix, or otherwise prepare a controlled substance, or  
 263 the practitioner may cause the same to be administered by a  
 264 licensed nurse or an intern practitioner under his or her  
 265 direction and supervision only. A veterinarian may so prescribe,  
 266 administer, dispense, mix, or prepare a controlled substance for  
 267 use on animals only, and may cause it to be administered by an  
 268 assistant or orderly under the veterinarian's direction and  
 269 supervision only. A certified optometrist licensed under chapter  
 270 463 may not administer or prescribe pharmaceutical agents listed  
 271 in Schedule I or Schedule II of s. 893.03.

272 Section 13. This act shall take effect July 1, 2013.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 239 (2013)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7  
8

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

11 Section 1. Paragraph (b) of subsection (3) and subsection  
12 (4) of section 463.002, Florida Statutes, are amended,  
13 subsection (5) is renumbered as subsection (6) and amended, and  
14 a new subsection (5) is added to that section, to read:

15 463.002 Definitions.—As used in this chapter, the term:

16 (3)

17 (b) A licensed practitioner who is not a certified  
18 optometrist shall be required to display at her or his place of  
19 practice a sign which states, "I am a Licensed Practitioner, not

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 239 (2013)

Amendment No.

20 a Certified Optometrist, and I am not able to prescribe ~~topical~~  
21 ocular pharmaceutical agents."

22 (4) "Certified optometrist" means a licensed practitioner  
23 authorized by the board to administer and prescribe ~~topical~~  
24 ocular pharmaceutical agents.

25 (5) "Ocular pharmaceutical agents" means a pharmaceutical  
26 agent that is administered through a topical or oral  
27 application; any other route of administration is prohibited.

28 ~~(5)~~ (6) "Optometry" means the diagnosis of conditions of the  
29 human eye and its appendages; the employment of any objective or  
30 subjective means or methods, including the administration of  
31 ~~topical~~ ocular pharmaceutical agents, for the purpose of  
32 determining the refractive powers of the human eyes, or any  
33 visual, muscular, neurological, or anatomic anomalies of the  
34 human eyes and their appendages; and the prescribing and  
35 employment of lenses, prisms, frames, mountings, contact lenses,  
36 orthoptic exercises, light frequencies, and any other means or  
37 methods, including ~~topical~~ ocular pharmaceutical agents, for the  
38 correction, remedy, or relief of any insufficiencies or abnormal  
39 conditions of the human eyes and their appendages.

40 Section 2. Paragraph (g) of subsection (1) of section  
41 463.005, Florida Statutes, is amended to read:

42 463.005 Authority of the board.—

43 (1) The Board of Optometry has authority to adopt rules  
44 pursuant to ss. 120.536(1) and 120.54 to implement the  
45 provisions of this chapter conferring duties upon it. Such rules  
46 shall include, but not be limited to, rules relating to:

Amendment No.

47 (g) Administration and prescription of ~~topical~~ ocular  
48 pharmaceutical agents.

49 Section 3. Section 463.0055, Florida Statutes, is amended  
50 to read:

51 463.0055 Administration and prescription of ~~topical~~ ocular  
52 pharmaceutical agents; committee.—

53 (1) (a) Certified optometrists may administer and prescribe  
54 ~~topical~~-ocular pharmaceutical agents as provided in this section  
55 for the diagnosis and treatment of ocular conditions of the  
56 human eye and its appendages without the use of surgery or other  
57 invasive techniques. However, a licensed practitioner who is not  
58 certified may use topically applied anesthetics solely for the  
59 purpose of glaucoma examinations, but is otherwise prohibited  
60 from administering or prescribing ~~topical~~-ocular pharmaceutical  
61 agents.

62 (b) Before a certified optometrist may administer or  
63 prescribe ocular pharmaceutical agents, the certified  
64 optometrist must complete a course and subsequent examination on  
65 general and ocular pharmaceutical agents and the side effects of  
66 those agents. For certified optometrists licensed before January  
67 1, 1990, the course shall consist of 50 contact hours and 25 of  
68 those hours shall be web-based. For certified optometrists  
69 licensed on or after January 1, 1990, the course shall consist  
70 of 20 contact hours and 10 of those hours shall be web-based.  
71 The first course and examination shall be presented by July 1,  
72 2013, and shall be administered at least annually thereafter.  
73 The Florida Medical Association and the Florida Optometric  
74 Association shall jointly develop and administer a course and

Amendment No.

75 examination for such purpose and jointly determine the site or  
76 sites for the course and examination. If a certified  
77 optometrist does not complete a course and subsequent  
78 examination under this paragraph, the certified optometrist is  
79 only authorized to administer ocular pharmaceutical agents by  
80 topical application.

81 (2) (a) There is ~~hereby~~ created a committee composed of two  
82 certified optometrists licensed pursuant to this chapter,  
83 appointed by the Board of Optometry, two board-certified  
84 ophthalmologists licensed pursuant to chapter 458 or chapter  
85 459, appointed by the Board of Medicine, and one additional  
86 person with a doctorate degree in pharmacology who is not  
87 licensed pursuant to chapter 458, chapter 459, or this chapter,  
88 appointed by the State Surgeon General. The committee shall  
89 review requests for additions to, deletions from, or  
90 modifications of a formulary of ~~topical~~ ocular pharmaceutical  
91 agents for administration and prescription by certified  
92 optometrists and shall provide to the board advisory opinions  
93 and recommendations on such requests. The formulary shall  
94 consist of those ~~topical~~ ocular pharmaceutical agents which are  
95 appropriate to treat and diagnose ocular diseases and disorders  
96 and which the certified optometrist is qualified to use in the  
97 practice of optometry. The board shall establish, add to, delete  
98 from, or modify the formulary by rule. Notwithstanding any  
99 provision of chapter 120 to the contrary, the formulary rule  
100 shall become effective 60 days from the date it is filed with  
101 the Secretary of State.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 239 (2013)

Amendment No.

102 (b) The formulary may be added to, deleted from, or  
103 modified according to the procedure described in paragraph (a).  
104 Any person who requests an addition, deletion, or modification  
105 of an authorized ~~topical~~ ocular pharmaceutical agent shall have  
106 the burden of proof to show cause why such addition, deletion,  
107 or modification should be made.

108 (c) The State Surgeon General shall have standing to  
109 challenge any rule or proposed rule of the board pursuant to s.  
110 120.56. In addition to challenges for any invalid exercise of  
111 delegated legislative authority, the administrative law judge,  
112 upon such a challenge by the State Surgeon General, may declare  
113 all or part of a rule or proposed rule invalid if it:

- 114 1. Does not protect the public from any significant and  
115 discernible harm or damages;
- 116 2. Unreasonably restricts competition or the availability  
117 of professional services in the state or in a significant part  
118 of the state; or
- 119 3. Unnecessarily increases the cost of professional  
120 services without a corresponding or equivalent public benefit.

121  
122 However, there shall not be created a presumption of the  
123 existence of any of the conditions cited in this subsection in  
124 the event that the rule or proposed rule is challenged.

125 (d) Upon adoption of the formulary required by this  
126 section, and upon each addition, deletion, or modification to  
127 the formulary, the board shall mail a copy of the amended  
128 formulary to each certified optometrist and to each pharmacy  
129 licensed by the state.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 239 (2013)

Amendment No.

130 (3) A certified optometrist shall be issued a prescriber  
131 number by the board. Any prescription written by a certified  
132 optometrist for a ~~topical-ocular~~ pharmaceutical agent pursuant  
133 to this section shall have the prescriber number printed  
134 thereon.

135 Section 4. Subsection (3) of section 463.0057, Florida  
136 Statutes, is amended to read:

137 463.0057 Optometric faculty certificate.—

138 (3) The holder of a faculty certificate may engage in the  
139 practice of optometry as permitted by this section, but may not  
140 administer or prescribe ~~topical~~ ocular pharmaceutical agents  
141 unless the certificateholder has satisfied the requirements of  
142 ss. 463.0055(1)(b) and 463.006(1)(b)4. and 5.

143 Section 5. Subsections (2) and (3) of section 463.006,  
144 Florida Statutes, are amended to read:

145 463.006 Licensure and certification by examination.—

146 (2) The examination shall consist of the appropriate  
147 subjects, including applicable state laws and rules and general  
148 and ocular pharmacology with emphasis on the use ~~topical~~  
149 ~~application~~ and side effects of ocular pharmaceutical agents.  
150 The board may by rule substitute a national examination as part  
151 or all of the examination and may by rule offer a practical  
152 examination in addition to the written examination.

153 (3) Each applicant who successfully passes the examination  
154 and otherwise meets the requirements of this chapter is entitled  
155 to be licensed as a practitioner and to be certified to  
156 administer and prescribe ~~topical~~ ocular pharmaceutical agents in  
157 the diagnosis and treatment of ocular conditions.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 239 (2013)

Amendment No.

158 Section 6. Subsection (10) is added to section 463.0135,  
159 Florida Statutes, to read:

160 463.0135 Standards of practice.—

161 (10) A certified optometrist is authorized to perform any  
162 eye examination, including a dilated examination, required or  
163 authorized by chapter 548 or by rules adopted to implement that  
164 chapter.

165 Section 7. Subsection (3) of section 463.014, Florida  
166 Statutes, is amended to read:

167 463.014 Certain acts prohibited.—

168 (3) Prescribing, ordering, dispensing, administering,  
169 supplying, selling, or giving any drug for the purpose of  
170 treating a systemic disease ~~systemic drugs~~ by a licensed  
171 practitioner is prohibited.

172 Section 8. Subsection (1) of section 483.035, Florida  
173 Statutes, is amended to read:

174 483.035 Clinical laboratories operated by practitioners  
175 for exclusive use; licensure and regulation.—

176 (1) A clinical laboratory operated by one or more  
177 practitioners licensed under chapter 458, chapter 459, chapter  
178 460, chapter 461, chapter 462, chapter 463, or chapter 466,  
179 exclusively in connection with the diagnosis and treatment of  
180 their own patients, must be licensed under this part and must  
181 comply with the provisions of this part, except that the agency  
182 shall adopt rules for staffing, for personnel, including  
183 education and training of personnel, for proficiency testing,  
184 and for construction standards relating to the licensure and  
185 operation of the laboratory based upon and not exceeding the

COMMITTEE/SUBCOMMITTEE AMENDMENT

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186 same standards contained in the federal Clinical Laboratory  
187 Improvement Amendments of 1988 and the federal regulations  
188 adopted thereunder.

189 Section 9. Subsection (7) of section 483.041, Florida  
190 Statutes, is amended to read:

191 483.041 Definitions.—As used in this part, the term:

192 (7) "Licensed practitioner" means a physician licensed  
193 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or  
194 a certified optometrist licensed under chapter 463; a dentist  
195 licensed under chapter 466; a person licensed under chapter 462;  
196 or an advanced registered nurse practitioner licensed under part  
197 I of chapter 464; or a duly licensed practitioner from another  
198 state licensed under similar statutes who orders examinations on  
199 materials or specimens for nonresidents of the State of Florida,  
200 but who reside in the same state as the requesting licensed  
201 practitioner.

202 Section 10. Subsection (5) of section 483.181, Florida  
203 Statutes, is amended to read:

204 483.181 Acceptance, collection, identification, and  
205 examination of specimens.—

206 (5) A clinical laboratory licensed under this part must  
207 accept a human specimen submitted for examination by a  
208 practitioner licensed under chapter 458, chapter 459, chapter  
209 460, chapter 461, chapter 462, chapter 463, s. 464.012, or  
210 chapter 466, if the specimen and test are the type performed by  
211 the clinical laboratory. A clinical laboratory may only refuse a  
212 specimen based upon a history of nonpayment for services by the  
213 practitioner. A clinical laboratory shall not charge different

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214 prices for tests based upon the chapter under which a  
215 practitioner submitting a specimen for testing is licensed.

216 Section 11. Subsection (21) of section 893.02, Florida  
217 Statutes, is amended to read:

218 893.02 Definitions.—The following words and phrases as  
219 used in this chapter shall have the following meanings, unless  
220 the context otherwise requires:

221 (21) "Practitioner" means a physician licensed pursuant to  
222 chapter 458, a dentist licensed pursuant to chapter 466, a  
223 veterinarian licensed pursuant to chapter 474, an osteopathic  
224 physician licensed pursuant to chapter 459, a naturopath  
225 licensed pursuant to chapter 462, a certified optometrist  
226 licensed pursuant to chapter 463, or a podiatric physician  
227 licensed pursuant to chapter 461, provided such practitioner  
228 holds a valid federal controlled substance registry number.

229 Section 12. Subsection (1) of section 893.05, Florida  
230 Statutes, is amended to read:

231 893.05 Practitioners and persons administering controlled  
232 substances in their absence.—

233 (1) A practitioner, in good faith and in the course of his  
234 or her professional practice only, may prescribe, administer,  
235 dispense, mix, or otherwise prepare a controlled substance, or  
236 the practitioner may cause the same to be administered by a  
237 licensed nurse or an intern practitioner under his or her  
238 direction and supervision only. A veterinarian may so prescribe,  
239 administer, dispense, mix, or prepare a controlled substance for  
240 use on animals only, and may cause it to be administered by an  
241 assistant or orderly under the veterinarian's direction and

Amendment No.

242 supervision only. A certified optometrist licensed under chapter  
243 463 may not administer or prescribe pharmaceutical agents listed  
244 in Schedule I or Schedule II of s. 893.03.

245 Section 13. This act shall take effect July 1, 2013.

246

247

248

249

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

250

251 Remove everything before the enacting clause and insert:

252

253

A bill to be entitled

254

An act relating to the practice of optometry; amending

255

s. 463.002, F.S.; specifying that a certified

256

optometrist is authorized to administer and prescribe

257

ocular pharmaceutical agents; providing a definition;

258

amending s. 463.005, F.S.; authorizing the Board of

259

Optometry to adopt rules relating to the

260

administration and prescription of ocular

261

pharmaceutical agents; amending s. 463.0055, F.S.;

262

requiring a certified optometrist to complete a course

263

and examination on general and ocular pharmaceutical

264

agents before administering or prescribing ocular

265

pharmaceutical agents; providing an exception;

266

specifying the number of required course hours based

267

on the date of licensure; requiring the Florida

268

Medical Association and the Florida Optometric

269

Association to jointly develop and administer the

COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No.

270 course and examination; revising provisions relating  
271 to the development of a formulary of ocular  
272 pharmaceutical agents; amending s. 463.0057, F.S.;  
273 prohibiting the holder of an optometric faculty  
274 certificate from administering or prescribing ocular  
275 pharmaceutical agents; amending s. 463.006, F.S.;  
276 revising provisions relating to licensure and  
277 certification of optometrists; amending s. 463.0135,  
278 F.S.; authorizing a certified optometrist to perform  
279 certain eye examinations; amending s. 463.014, F.S.;  
280 prohibiting a licensed practitioner of optometry from  
281 providing any drug for the purpose of treating a  
282 systemic disease; amending s. 483.035, F.S.; requiring  
283 a clinical laboratory operated by a licensed  
284 practitioner of optometry to be licensed under pt. I  
285 of ch. 463, F.S.; amending s. 483.041, F.S.; revising  
286 the definition of the term "licensed practitioner" to  
287 include certified optometrists; amending s. 483.181,  
288 F.S.; providing for an optometrist to accept a human  
289 specimen for examination, under certain conditions;  
290 amending s. 893.02, F.S.; redefining the term  
291 "practitioner" to include certified optometrists;  
292 amending s. 893.05, F.S.; prohibiting a certified  
293 optometrist from administering or prescribing  
294 pharmaceutical agents listed in Schedule I or Schedule  
295 II of the Florida Comprehensive Drug Abuse Prevention  
296 and Control Act; providing an effective date.  
297





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 83 Infant Death  
SPONSOR(S): Santiago  
TIED BILLS: IDEN./SIM. BILLS: SB 56

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

SUMMARY ANALYSIS

HB 83 amends s. 383.3362, F.S., relating to Sudden Infant Death Syndrome (SIDS) to update the activities of the Department of Health (DOH) and the medical examiners when reporting and classifying the cause of death of an infant under 1 year of age who suddenly dies, when in apparent good health. The bill brings the law into conformity with current federal Centers for Disease Control and Prevention (CDC) standards of practice by redefining and using a category for infant death that is broader than SIDS called "Sudden Unexpected Infant Death (SUID)," which includes infant death resulting from: SIDS, accidental suffocation, metabolic errors, injury or trauma and unclassified or accidental causes.

The bill amends the legislative intent, definitions, training requirements for first responders, autopsy requirements performed by medical examiners, and the protocol for medical and legal investigations to reflect the new SUID standard. The bill amends current law which requires a medical examiner to perform an autopsy within 24-hours (or as soon as feasible) on an infant suspected to have died from SIDS, and makes the decision to perform an autopsy discretionary. Such discretion, allows a medical examiner to forgo an autopsy in cases that are deemed to have occurred due to an accidental cause, such as a motor vehicle accident.

Additionally, the bill deletes references to SIDS, the SIDS hotline and the Florida SIDS Alliance. The bill makes technical changes by restructuring the language to improve readability and deleting unnecessary words and an obsolete date.

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

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

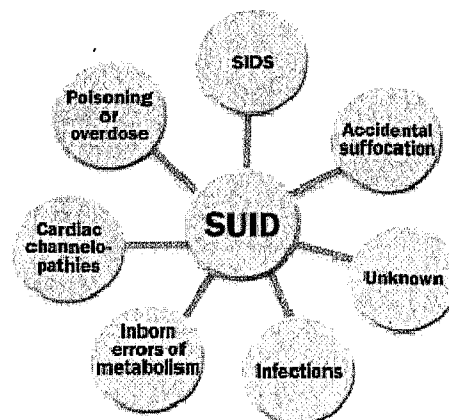
##### PRESENT SITUATION

##### Sudden Infant Death Syndrome versus Sudden Unexpected Infant Death

The federal Centers for Disease Control and Prevention (CDC) defines Sudden Infant Death Syndrome (SIDS) as the sudden death of an infant less than one year of age that cannot be explained after a thorough investigation is conducted, including a completed autopsy, examination of the death scene, and review of the clinical history.<sup>1</sup> According to the CDC, SIDS is considered a diagnosis of exclusion and of unknown etiology. SIDS is a diagnosis that should be given only after all other possible causes of sudden, unexplained death have been ruled out through a careful case investigation, which includes a thorough examination of the death scene, a complete autopsy, and a review of the infant's medical history.<sup>2</sup>

SIDS is the leading cause of death among infants aged 1–12 months, and is the third leading cause overall of infant mortality in the United States.<sup>3</sup> SIDS most commonly occurs in infants from two to four months of age and rarely after eight months of age. SIDS also occurs more frequently in African Americans, American Indians, and Alaska Natives than in Caucasians.<sup>4</sup> Modifiable risk factors for SIDS include: overheating; stomach and side sleeping positions; soft sleeping surfaces; loose bedding; inappropriate sleep surface; sharing the same sleep surface; and maternal and secondhand smoking.<sup>5</sup> SIDS is not caused by suffocation, aspiration, abuse, or neglect. According to the National Institute of Child Health and Human Development, recent research suggests that certain infants may be highly susceptible to SIDS, due to an abnormality in a specific nerve cell in the brain.<sup>6</sup>

SIDS is a subset of SUID. In contrast to SIDS, SUID is defined as deaths in infants less than one year of age that occur suddenly and unexpectedly, and whose cause of death is not immediately obvious prior to investigation. The most common causes of SUID are: SIDS, accidental suffocation, metabolic errors, injury or trauma and unclassified causes (e.g., if the death scene investigation and/or autopsy were incomplete or not done and the death certifier has insufficient evidence to record a more specific cause of death).



##### Federal Initiative for Sudden Unexpected Infant Death

Since the early 1990s, SIDS rates have declined by 50 percent, in large part due to the national campaign to place infants on their backs to sleep (Back-to-Sleep Campaign). Two reports<sup>7</sup> conducted

<sup>1</sup>Centers for Disease Control and Prevention, Sudden Unexpected Infant Death and Sudden Infant Death Syndrome. Available at: <http://www.cdc.gov/SIDS/index.htm> (last viewed Feb. 5, 2013).

<sup>2</sup>Centers for Disease Control, Guidelines for the Scene Investigator. Available at: [www.cdc.gov/sids/PDF/SUIDManual/Chapter1\\_tag508.pdf](http://www.cdc.gov/sids/PDF/SUIDManual/Chapter1_tag508.pdf) (last viewed Feb. 5, 2013).

<sup>3</sup>*Id.*

<sup>4</sup>See *Supra* note 2.

<sup>5</sup>*Id.*

<sup>6</sup>Eunice Kennedy Shriver, National Institute of Child Health & Human Development, "SIDS Linked to Low Levels of Serotonin". Available at: <http://www.nichd.nih.gov/news/releases/Pages/020310-SIDS-linked-serotonin.aspx> (last viewed Feb. 5, 2013).

<sup>7</sup>Shaprio-Mendoza CK, Tomashek KM, Anderson RN, and Wingo J, "Recent national trends in sudden, unexpected infant deaths: more evidence supporting a change in classification or reporting" *American Journal of Epidemiology* (2006 Apr 15; 163(8): 762-9).

in 2005 and 2006, provide evidence that cause-of-death reporting and classifying of SUID may be unreliable. The studies found that the decline in the SIDS rate since 1999 was offset by an increase in mortality rates for accidental suffocation and strangulation in bed and for unknown/unspecified causes. Some deaths that were previously reported as SIDS are now reported as deaths due to accidental suffocation or unknown cause. This finding suggests that changes in reporting of cause of death might account for part of the recent decrease in the rate of SIDS.<sup>8</sup>

To address these changes, the CDC began the SUID Initiative in order to improve investigation and reporting practices for SIDS and SUID. The SUID Initiative's goals include:

- Standardization and improvement of data collection at the death scene;
- Promotion of the consistent classification and reporting of the cause of death;
- Improving the national reporting of SUID; and
- Reducing SUID by using improved data to identify those at risk.

As a result, the CDC revised reporting forms, developed standardized training materials and implemented a state-based SUID case registry. In 2012, the CDC dispersed grants to 10 states to participate in the state-based SUID case registry.<sup>9</sup>

### Florida Infant Death Statistics

The DOH reports annually on infant deaths throughout the state in the Florida Vital Statistics Annual Report.<sup>10</sup> This report provides the number of fetal deaths per 1,000 live births, the number of deaths by race and compares that data to national figures. Additionally, specific information on infant mortality rates, including data on SIDS and SUID deaths by county may be queried in the FloridaCHARTS.com database.<sup>11</sup>

From 2011 to 2009, there were 610 SUID and 181 SIDS recorded infant deaths in Florida.<sup>12</sup>

Recorded Florida Infant Deaths		
Year	SUID	SIDS
2011	195	47
2010	207	62
2009	208	72

Source: FloridaCHARTS.com

### Florida Sudden Infant Death Syndrome

Florida law currently defines SIDS as the "sudden unexpected death of an infant under 1 year of age which remains unexplained after a complete autopsy, death-scene investigation, and review of case history. The term includes only those deaths for which, currently, there is no known cause or cure."<sup>13</sup>

Since 1993, the DOH has been statutorily tasked with oversight of the SIDS program in Florida.<sup>14</sup> The DOH is required to develop and adopt by rule a training curriculum in collaboration with the EMS

and Malloy MH, and MacDorman M., "Changes in the classification of sudden unexpected infant deaths: United States, 1992-2001," *Pediatrics* (2005 May; 115(5): 1247-53).

<sup>8</sup> See Supra note 2.

<sup>9</sup> The 10 state grantees are: Arizona, Colorado, Connecticut, Louisiana, Michigan, Minnesota, New Jersey, New Mexico, New Hampshire, and Wisconsin.

<sup>10</sup> See Florida Vital Statistics Annual Report 2011, <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx>, (last visited Feb. 5, 2013).

<sup>11</sup> See Florida Department of Health, Division of Public Health Statistics & Performance Management, Infant Deaths Query. Available at: <http://www.floridacharts.com/FLOQUERY/InfantMortality/InfantMortalityRpt.aspx> (last visited Feb. 5, 2013).

<sup>12</sup> *Id.*

<sup>13</sup> S. 383.3362(2), F.S.

<sup>14</sup> Ch. 93-182, L.O.F.

Advisory Council; Firefighters Employment, Standards, and Training Council; and the Criminal Justice Standards and Training Commission. The training targets first responders (or “emergency responders”<sup>15</sup>) and is directed to focus on the nature of SIDS, standard procedures to be followed by law enforcement investigating infant death cases that may implicate SIDS, and training on how to appropriately respond to families or caretakers at the time of the infant’s death.<sup>16</sup>

The current rule requires that the SIDS Recognition and Response training program include, at a minimum, the following learning objectives:<sup>17</sup>

- Define SIDS.
- Describe the epidemiology of SIDS.
- Describe the physical features of an infant who has died of SIDS.
- Describe the circumstances associated with a SIDS death.
- Identify the activities the emergency responder initiates.
- Describe the varied responses of SIDS families to sudden infant death.
- Respond to SIDS families in a sensitive manner.
- Describe the varied emotional reactions of emergency responders to sudden infant death.
- Identify ways emergency responders may cope with their own critical incident stress.
- Identify the community resources available to SIDS families.

According to Florida Department of Law Enforcement, the training on the proper response in infant death cases is included in the Criminal Justice Standards and Training Commission approved curricula for basic and advanced training of law enforcement officers. Both the basic and advanced training curricula have been updated and now use the term SUID.<sup>18</sup>

Furthermore, the DOH is required to:<sup>19</sup>

- Collaborate with other agencies in the development and presentation of the SIDS training program for first responders, including emergency medical technicians and paramedics, firefighters, and law enforcement officers.
- Maintain a database of statistics on reported SIDS deaths, and analyze the data as funds allow.
- Serve as liaison and closely coordinate activities with the Florida SIDS Alliance<sup>20</sup>, including the services related to the SIDS hotline.
- Maintain a library reference list and materials about SIDS for public dissemination.
- Provide professional support to field staff.
- Coordinate the activities of, and promote a link between, the fetal and infant mortality review committees of the local healthy start coalitions, the local SIDS alliance, and other related support groups.

### **Florida Medical Examiners Commission**

Chapter 406, part I, F.S., creates the Medical Examiners Act and the Medical Examiners Commission. Florida law, under s. 383.3362, F.S., requires that an autopsy must be performed in all suspected SIDS

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<sup>15</sup> An emergency responder is defined in rule to mean the law enforcement officers, paramedics, firefighters, emergency medical technicians, or other medical personnel who respond to the initial report of an unresponsive infant. *See* Rule 64F-5.001, F.A.C.

<sup>16</sup> S. 383.3362(3), F.S.

<sup>17</sup> Rule 64F-5.002, F.A.C.

<sup>18</sup> Florida Department of Law Enforcement, Agency Analysis for HB 83, dated January 18, 2013, on file with the Health Quality Subcommittee.

<sup>19</sup> S. 383.3362(5), F.S.

<sup>20</sup> The Florida SIDS Alliance formed in 1985 and its mission is to provide a reliable and continuous source of assistance to parents who have lost a child suddenly and unexpectedly, provide information and referral networking, sponsor educational campaigns, and promote and support research into the cause and possible prevention of SIDS through fundraising and public education. The Florida SIDS Alliance operates a hotline (1-800-SIDS-FLA) and a website. *See* <http://flasids.com/blog/florida-sids-alliance/> (last visited Feb. 5, 2013).

cases by a medical examiner within 24 hours, or as soon as feasible.<sup>21</sup> Section 383.3362(4)(d), F.S., cross-references s. 406.11, F.S., which provides the medical examiner authority, when deaths occur under certain circumstances, to examine, investigate, and perform autopsies as he or she deems necessary.

If the medical examiner's findings are consistent with SIDS, this condition must be listed as the cause of death on the death certificate. The Legislature granted medical examiners an exemption from civil action for any act or omission that may occur from complying with the law by conducting the required autopsy on the infant.<sup>22</sup>

Moreover, the Medical Examiners Commission within the Florida Department of Law Enforcement is required to develop a protocol for handling suspected SIDS autopsies.<sup>23</sup> The protocol was last updated on July 28, 2010.<sup>24</sup> All medical examiners are required to follow the protocol requiring familiarity with the circumstance and location of the body; review of the infant's clinical history to include determination of prenatal, delivery and postnatal medical information, which includes history of familial disease, mental illness and social setting pertinent to the exclusion of illnesses or child abuse; and a comprehensive autopsy. The comprehensive autopsy should include: x-rays; histology slides to exclude diagnosable disease processes; bacterial and viral cultures to exclude suspected infectious agents; and a toxicology study when indicated.<sup>25</sup>

## EFFECTS OF PROPOSED CHANGES

The bill amends the law relating to SIDS to update the activities of the DOH and the medical examiners when reporting and classifying the cause of death of an infant under 1 year of age who suddenly dies, when in apparent good health. The bill brings the law into conformity with current CDC standards of practice by redefining and using a category for infant death that is broader than SIDS called, "Sudden Unexpected Infant Death," which includes infant death resulting from: SIDS, accidental suffocation, metabolic errors, injury or trauma and unclassified or accidental causes.

The bill amends the legislative intent, definitions, training requirements for first responders, autopsy requirements performed by medical examiners, and the protocol for medical and legal investigations to reflect the new SUID standard. The bill amends current law, which requires a medical examiner to perform an autopsy within 24-hours (or as soon as feasible) on an infant suspected to have died from SIDS, to allow a medical examiner discretion to determine whether an autopsy is necessary. This discretion allows a medical examiner to forgo an autopsy in instances such as a known accidental death (e.g. when an infant dies in a motor vehicle accident).

Additionally, the bill deletes references to SIDS, the SIDS hotline and the Florida SIDS Alliance. The bill makes technical changes by restructuring the language to improve readability and deleting unnecessary words and an obsolete date.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 383.3362, F.S., relating to sudden infant death syndrome.

**Section 2.** Provides an effective date of July 1, 2013.

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<sup>21</sup> S. 383.3362(4), F.S.

<sup>22</sup> S. 383.3362(4)(c), F.S.

<sup>23</sup> S. 383.3364(4)(b), F.S. The Administrative Rule governing the SIDS Autopsy Protocol was repealed May 21, 2012. See ch. 11G-2.0031, F.A.C.

<sup>24</sup> Florida Department of Law Enforcement, Medical Examiners Commission, Practice Guidelines: Infant Deaths. Available at: <http://www.fdle.state.fl.us/Content/getdoc/916d04c4-f522-4d8a-b16b-15fe90a9b28e/Practice-Guidelines-2009-Adopted.aspx> (last viewed Feb. 5, 2013).

<sup>25</sup> *Id.*

## 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:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None Identified.

### B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient authority to implement the provisions of the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to infant death; amending s. 383.3362,  
 3           F.S.; revising legislative findings and intent with  
 4           respect to the sudden unexpected death of an infant  
 5           under a specified age; defining the term "sudden  
 6           unexpected infant death"; revising provisions relating  
 7           to training requirements for first responders;  
 8           revising requirements relating to autopsies performed  
 9           by medical examiners; requiring the Medical Examiners  
 10          Commission to provide for the development and  
 11          implementation of a protocol for the medicolegal  
 12          investigation of sudden unexpected infant deaths;  
 13          deleting references to the SIDS hotline and local SIDS  
 14          alliances; providing an effective date.

15  
 16   Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1.   Section 383.3362, Florida Statutes, is amended  
 19   to read:

20           383.3362   Sudden unexpected infant death ~~Syndrome~~.—  
 21           (1)   FINDINGS AND INTENT.—The Legislature recognizes that  
 22   more than 4,500 infants in the United States die suddenly and  
 23   unexpectedly of no immediate or obvious cause. According to  
 24   statistics from the Department of Health, more than 200 infants  
 25   in this state experienced sudden unexpected infant death in 2010  
 26   ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~  
 27   ~~death among children under the age of 1 year, both nationally~~  
 28   ~~and in this state.~~ The Legislature further recognizes that first

29 responders to emergency calls relating to such a death need  
 30 access to special training to better enable them to recognize  
 31 that such deaths may result from natural and accidental causes  
 32 or may be caused ~~distinguish SIDS from death caused~~ by criminal  
 33 acts and to appropriately interact with the deceased infant's  
 34 parents or caretakers. At the same time, the Legislature,  
 35 recognizing that the primary focus of first responders is to  
 36 carry out their assigned duties, intends to increase ~~the~~  
 37 awareness of the possible causes of sudden unexpected infant  
 38 death ~~SIDS by first responders~~, but in no way expand or take  
 39 away from the their ~~their~~ duties of first responders. Further, the  
 40 Legislature recognizes the importance of a multidisciplinary  
 41 investigation and standardized investigative protocols in cases  
 42 of sudden unexpected infant death ~~standard protocol for review~~  
 43 ~~of SIDS deaths by medical examiners and the importance of~~  
 44 ~~appropriate followup in cases of certified or suspected SIDS~~  
 45 ~~deaths~~. Finally, the Legislature finds that it is desirable to  
 46 analyze existing data, and ~~to~~ conduct further research on, the  
 47 possible causes of sudden unexpected infant death ~~SIDS~~ and on  
 48 how to reduce its incidence ~~lower the number of sudden infant~~  
 49 ~~deaths~~.

50 (2) DEFINITION.—As used in this section, the term "sudden  
 51 unexpected infant death Syndrome," or "SUID," "SIDS," means the  
 52 sudden unexpected death of an infant under 1 year of age while  
 53 in apparent good health whose death may have been a result of  
 54 natural or unnatural causes ~~which remains unexplained after a~~  
 55 ~~complete autopsy, death-scene investigation, and review of the~~  
 56 ~~case history. The term includes only those deaths for which,~~



57 ~~currently, there is no known cause or cure.~~

58 (3) TRAINING.—

59 (a) The Legislature finds that an emergency medical  
 60 technician, a paramedic, a firefighter, or a law enforcement  
 61 officer is likely to be the first responder to a request for  
 62 assistance which is made immediately after the sudden unexpected  
 63 death of an infant. The Legislature further finds that these  
 64 first responders should be trained in appropriate responses to  
 65 sudden unexpected infant death.

66 (b) ~~After January 1, 1995,~~ The basic training programs  
 67 required for certification as an emergency medical technician, a  
 68 paramedic, a firefighter, or a law enforcement officer as  
 69 defined in s. 943.10, other than a correctional officer or a  
 70 correctional probation officer, must include curriculum that  
 71 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

72 (c) The Department of Health, in consultation with the  
 73 Emergency Medical Services Advisory Council, the Firefighters  
 74 Employment, Standards, and Training Council, and the Criminal  
 75 Justice Standards and Training Commission, shall develop and  
 76 adopt, by rule, curriculum that, at a minimum, includes training  
 77 in the nature of SUID ~~SIDS~~, standard procedures to be followed  
 78 by law enforcement agencies in investigating cases involving the  
 79 sudden unexpected deaths of infants, and training in responding  
 80 appropriately to the parents or caretakers who have requested  
 81 assistance.

82 (4) AUTOPSIES.—

83 (a) The death of any infant younger than 1 year of age who  
 84 dies suddenly and unexpectedly while in apparent good health

85 falls under the jurisdiction of the medical examiner as provided  
 86 in s. 406.11. The medical examiner must perform an autopsy upon  
 87 any infant under the age of 1 year who is suspected to have died  
 88 of Sudden Infant Death Syndrome. The autopsy must be performed  
 89 within 24 hours after the death, or as soon thereafter as is  
 90 feasible. When the medical examiner's findings are consistent  
 91 with the definition of sudden infant death syndrome in  
 92 subsection (2), the medical examiner must state on the death  
 93 certificate that sudden infant death syndrome was the cause of  
 94 death.

95 (b) The Medical Examiners Commission shall provide for the  
 96 development and implementation of ~~develop and implement~~ a  
 97 protocol for the medicolegal investigation of SUID ~~dealing with~~  
 98 ~~suspected sudden infant death syndrome. The protocol must be~~  
 99 ~~followed by all medical examiners when conducting the autopsies~~  
 100 ~~required under this subsection. The protocol may include~~  
 101 requirements and standards for scene investigations,  
 102 requirements for specific data, criteria for any specific tissue  
 103 sampling, and any other requirements that are deemed  
 104 ~~ascertaining cause of death based on the autopsy, criteria for~~  
 105 ~~any specific tissue sampling, and any other requirements that~~  
 106 ~~the commission considers necessary.~~

107 (c) A medical examiner is not liable for damages in a  
 108 civil action for any act or omission done in compliance with  
 109 this subsection.

110 ~~(d) An autopsy must be performed under the authority of a~~  
 111 ~~medical examiner under s. 406.11.~~

112 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT

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113 DEATH (SUID) ~~SYNDROME (SIDS)~~.—The Department of Health shall:

114 (a) Collaborate with other agencies in the development and  
 115 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~  
 116 training programs for first responders, including those for  
 117 emergency medical technicians and paramedics, firefighters, and  
 118 law enforcement officers.

119 (b) Maintain a database of statistics on reported SUID  
 120 ~~SIDS~~ deaths, and analyze the data as funds allow.

121 (c) Serve as liaison and closely coordinate activities  
 122 with the Florida SIDS Alliance, ~~including the services related~~  
 123 ~~to the SIDS hotline.~~

124 (d) Maintain a library reference list and materials about  
 125 SUID ~~SIDS~~ for public dissemination.

126 (e) Provide professional support to field staff.

127 (f) Coordinate the activities of and promote a link  
 128 between the fetal and infant mortality review committees of the  
 129 local healthy start coalitions, ~~the local SIDS alliance,~~ and  
 130 other related support groups.

131 Section 2. This act shall take effect July 1, 2013.



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COMMITTEE/SUBCOMMITTEE ACTION

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

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

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

7 Section 1. Section 383.3362, Florida Statutes, is amended  
8 to read:

9 383.3362 Sudden Unexpected Infant Death ~~Syndrome~~.—

10 (1) FINDINGS AND INTENT.—The Legislature recognizes that  
 11 more than 4,500 infants in the United States die suddenly and  
 12 unexpectedly of no immediate or obvious cause. According to  
 13 statistics from the Department of Health, more than 200 infants  
 14 in this state experienced Sudden Unexpected Infant Death in 2010  
 15 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~  
 16 ~~death among children under the age of 1 year, both nationally~~  
 17 ~~and in this state.~~ The Legislature further recognizes that first  
 18 responders to emergency calls relating to such a death need  
 19 access to special training to better enable them to recognize



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20 that such deaths may result from natural and accidental causes  
21 or may be caused ~~distinguish SIDS from death caused~~ by criminal  
22 acts and to appropriately interact with the deceased infant's  
23 parents or caretakers. At the same time, the Legislature,  
24 recognizing that the primary focus of first responders is to  
25 carry out their assigned duties, intends to increase ~~the~~  
26 awareness of the possible causes of Sudden Unexpected Infant  
27 Death ~~SIDS by first responders~~, but in no way expand or take  
28 away from their duties. Further, the Legislature recognizes the  
29 importance of a multidisciplinary investigation and standardized  
30 investigative protocols in cases of Sudden Unexpected Infant  
31 Death ~~standard protocol for review of SIDS deaths by medical~~  
32 ~~examiners and the importance of appropriate followup in cases of~~  
33 ~~certified or suspected SIDS deaths~~. Finally, the Legislature  
34 finds that it is desirable to analyze existing data, and ~~to~~  
35 conduct further research on, the possible causes of Sudden  
36 Unexpected Infant Death ~~SIDS~~ and on how to reduce its incidence  
37 ~~lower the number of sudden infant deaths~~.

38 (2) DEFINITION.—As used in this section, the term "Sudden  
39 Unexpected Infant Death Syndrome," or "SUID," ~~"SIDS,"~~ means the  
40 sudden unexpected death of an infant under 1 year of age while  
41 in apparent good health whose death may have been a result of  
42 natural or unnatural causes ~~which remains unexplained after a~~  
43 ~~complete autopsy, death scene investigation, and review of the~~  
44 ~~case history. The term includes only those deaths for which,~~  
45 ~~currently, there is no known cause or cure.~~

46 (3) TRAINING.—

47 (a) The Legislature finds that an emergency medical



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48 technician, a paramedic, a firefighter, or a law enforcement  
49 officer is likely to be the first responder to a request for  
50 assistance which is made immediately after the sudden unexpected  
51 death of an infant. The Legislature further finds that these  
52 first responders should be trained in appropriate responses to  
53 sudden infant death.

54 (b) ~~After January 1, 1995,~~ The basic training programs  
55 required for certification as an emergency medical technician, a  
56 paramedic, a firefighter, or a law enforcement officer as  
57 defined in s. 943.10, other than a correctional officer or a  
58 correctional probation officer, must include curriculum that  
59 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

60 (c) The Department of Health, in consultation with the  
61 Emergency Medical Services Advisory Council, the Firefighters  
62 Employment, Standards, and Training Council, the child  
63 protection teams established in Children's Medical Services  
64 program, and the Criminal Justice Standards and Training  
65 Commission, shall develop and adopt, by rule, curriculum that,  
66 at a minimum, includes training in the nature of SUID ~~SIDS~~,  
67 standard procedures to be followed by law enforcement agencies  
68 in investigating cases involving sudden deaths of infants, and  
69 training in responding appropriately to the parents or  
70 caretakers who have requested assistance.

71 (4) AUTOPSIES.—

72 (a) The death of any infant younger than 1 year of age who  
73 dies suddenly and unexpectedly while in apparent good health  
74 falls under the jurisdiction of the medical examiner as provided  
75 in s. 406.11. ~~The medical examiner must perform an autopsy upon~~



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76 ~~any infant under the age of 1 year who is suspected to have died~~  
77 ~~of Sudden Infant Death Syndrome. The autopsy must be performed~~  
78 ~~within 24 hours after the death, or as soon thereafter as is~~  
79 ~~feasible. When the medical examiner's findings are consistent~~  
80 ~~with the definition of sudden infant death syndrome in~~  
81 ~~subsection (2), the medical examiner must state on the death~~  
82 ~~certificate that sudden infant death syndrome was the cause of~~  
83 ~~death.~~

84 (b) The Medical Examiners Commission shall provide for the  
85 development and implementation of ~~develop and implement~~ a  
86 protocol for the medicolegal investigation of SUID ~~dealing with~~  
87 ~~suspected sudden infant death syndrome. The protocol must be~~  
88 ~~followed by all medical examiners when conducting the autopsies~~  
89 ~~required under this subsection.~~ The protocol may include  
90 requirements and standards for scene investigations,  
91 requirements for specific data, criteria for any specific tissue  
92 sampling, and any other requirements that are deemed  
93 ~~ascertaining cause of death based on the autopsy, criteria for~~  
94 ~~any specific tissue sampling, and any other requirements that~~  
95 ~~the commission considers necessary.~~

96 (c) A medical examiner is not liable for damages in a  
97 civil action for any act or omission done in compliance with  
98 this subsection.

99 ~~(d) An autopsy must be performed under the authority of a~~  
100 ~~medical examiner under s. 406.11.~~

101 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT  
102 DEATH (SUID) ~~SYNDROME (SIDS).~~—The Department of Health, in  
103 consultation with the child protection teams established in the



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104 Children's Medical Services program, shall:

105 (a) Collaborate with other agencies in the development and  
106 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~  
107 training programs for first responders, including those for  
108 emergency medical technicians and paramedics, firefighters, and  
109 law enforcement officers.

110 (b) Maintain a database of statistics on reported SUID  
111 ~~SIDS~~ deaths, and analyze the data as funds allow.

112 (c) Serve as liaison and closely coordinate activities  
113 with the Florida SIDS Alliance, ~~including the services related~~  
114 ~~to the SIDS hotline.~~

115 (d) Maintain a library reference list and materials about  
116 SUID ~~SIDS~~ for public dissemination.

117 (e) Provide professional support to field staff.

118 (f) Coordinate the activities of and promote a link  
119 between the fetal and infant mortality review committees of the  
120 local healthy start coalitions, the Florida ~~local~~ SIDS Alliance,  
121 and other related support groups.

122 Section 2. This act shall take effect July 1, 2013.

124 -----

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

126 Remove everything before the enacting clause and insert:

127 A bill to be entitled

128 An act relating to infant death; amending s. 383.3362,  
129 F.S.; revising legislative findings and intent with  
130 respect to the sudden unexpected death of an infant  
131 under a specified age; defining the term "Sudden





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132 Unexpected Infant Death" (SUID); revising provisions  
133 relating to training requirements for first  
134 responders; revising requirements relating to  
135 autopsies performed by medical examiners; requiring  
136 the Medical Examiners Commission to provide for the  
137 development and implementation of a protocol for the  
138 medicolegal investigation of SUID; providing an  
139 effective date.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 9 Involuntary Examinations under the Baker Act  
SPONSOR(S): Campbell  
TIED BILLS: IDEN./SIM. BILLS: SB 110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Guzzo <i>EG</i>	O'Callaghan <i>no</i>
2) Civil Justice Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

HB 9 amends s. 394.463, F.S., permitting Advanced Registered Nurse Practitioners and Physician Assistants to execute a certificate for involuntary examination of a person for mental illness at a receiving facility designated by the Department of Children and Families. Current law provides that certain physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists and clinical social workers may execute certificates for involuntary examination.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### *Involuntary Examination (Baker Act)*

In 1971, the legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.<sup>1</sup> Chapter 394, Part I, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities which provide for the examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities which provide for the involuntary examination and short term treatment of persons who meet criteria under this act.<sup>2</sup> Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g. Florida State Hospital) which provide extended treatment and hospitalization, beyond what is provided in a receiving facility.<sup>3</sup>

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness and because of the illness the person has refused a voluntary examination after explanation of the purpose of the exam or the person is unable to determine for themselves that an examination is needed and is likely to suffer from self-neglect, substantial harm to themselves or be a danger to themselves or others.<sup>4</sup> An involuntary examination may be initiated by any of the following:<sup>5</sup>

- A court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. This order is based on the sworn testimony by the petitioner, either written or oral.
- A law enforcement officer may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.
- Physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists or clinical social workers may issue a certificate stating that a person they examined within the preceding 48 hours meets the criteria for involuntary examination.

Current law provides that physicians, clinical psychologists, and psychiatric nurses who issue certificates for involuntary examinations must have additional experience and/or additional education requirements related to mental disorders.<sup>6</sup> Clinical Social Workers are required by law to have experience in providing psychotherapy and counseling.<sup>7</sup> Marriage and Family Therapists use practice methods of a psychological nature to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions.<sup>8</sup>

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<sup>1</sup> Section 1, ch. 71-131, L.O.F.

<sup>2</sup> Section 394.455(26), F.S.

<sup>3</sup> Section 394.455(32), F.S.

<sup>4</sup> Section 394.463(1), F.S.

<sup>5</sup> Section 394.463, F.S.

<sup>6</sup> Subsections 394.455(2), (21), and (23), F.S.

<sup>7</sup> Section 491.003(3), F.S.

<sup>8</sup> Section 491.003(8), F.S.

During 2011, there were 150,466 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary exams (49.21 percent) followed by mental health professionals (48.73 percent) and then *ex parte* orders by judges (2.06 percent).<sup>9</sup>

### *Physician Assistants (PA)*

Sections 458.347(7), and 459.022(7), F.S., govern the licensure of physician assistants (PAs) in Florida. PAs are licensed by the Department of Health (DOH) and are regulated by the Florida Council on Physician Assistants (Council) and either the Florida Board of Medicine (Board of Medicine) for PAs licensed under Chapter 458, F.S., or the Florida Board of Osteopathic Medicine (Osteopathic Board) for PAs licensed under Chapter 459, F.S. Currently there are 5,348 active licensed PAs in Florida.<sup>10</sup>

PAs may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship. A supervising physician may only delegate tasks and procedures to the physician assistant that are within the supervising physician's scope of practice.<sup>11</sup> The supervising physician is responsible and liable for any and all acts of the PA and may only supervise up to four PAs at any time.<sup>12</sup>

PAs are regulated through the respective physician practice acts.<sup>13</sup> Each of the medical practice acts has a corresponding board (i.e., the Board of Medicine and Osteopathic Board). The duty of the Boards and its members is to make disciplinary decisions concerning whether a doctor or PA was practicing medicine within the confines of their practice act.<sup>14</sup>

To become licensed as a PA in Florida, an applicant must demonstrate to the Council:<sup>15</sup> passage of the National Commission on Certification of Physician Assistant exam, completion of the application, completion of a PA training program; a sworn, notarized statement of felony convictions; a sworn statement of denial or revocation of licensure in any state, letters of recommendation from physicians;<sup>16</sup> payment of a licensure fee; and completion of a two hour course on the prevention of medical errors, error reduction and prevention, and patient safety.<sup>17</sup> Licensure renewal occurs biennially.<sup>18</sup>

### *Advanced Registered Nurse Practitioner (ARNP)*

Part I of Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by DOH and are regulated by the Board of Nursing. Licensure requirements to practice professional nursing include completion of education requirements<sup>19</sup>, demonstration of passage of a department-approved examination, a clean criminal background screening, and payment of applicable

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<sup>9</sup> Christy, A. (2013). *Report of Baker Act Data*. Tampa, FL; University of South Florida, Louis de la Parte Florida Mental Health Institute. Available at: <http://bakeraact.fmhi.usf.edu/> (last visited Feb. 5, 2013).

<sup>10</sup> Florida Department of Health, Medical Quality Assurance Annual Report 2011-2012.

<sup>11</sup> Rule 64B8-30.012(1), F.A.C., and Rule 64B15-6.010(1), F.A.C.

<sup>12</sup> Section 458.347(3), F.S., and s. 459.022(3), F.S.

<sup>13</sup> Chapters. 458 and 459, F.S.

<sup>14</sup> Section 458.347(12), F.S., and s. 459.022(12), F.S.

<sup>15</sup> Section 458.347(7), F.S., and s. 459.022(7), F.S.

<sup>16</sup> Rule 64B8-30.003(1), F.A.C., and Rule 64B15-6.003(1), F.A.C.

<sup>17</sup> Rule 64B8-30.003(3), F.A.C., and Rule 64B-15-6.003(4), F.A.C.

<sup>18</sup> Section 458.347(7)(c), F.S. Rule 64B8-30.019, F.A.C., establishes the initial licensure and renewal fee schedule. S. 459.022(7)(b), F.S. Rule 64B15-6.013, F.A.C., establishes the initial licensure and renewal fee schedule.

<sup>19</sup> Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

fees.<sup>20</sup> Renewal is biennial and contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice professional nursing may be certified as an ARNP under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Completion of a post basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, such as a registered nurse anesthetist or nurse midwife; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.<sup>21</sup> All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.<sup>22</sup> ARNPs may carry out treatments as specified in statute, including:<sup>23</sup>

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2), F.S.;<sup>24</sup> and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above permitted acts, ARNPs may also perform other acts as permitted in statute within his/her specialty.<sup>25</sup> Further, if it is within the ARNPs established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.<sup>26</sup>

There are 14,440 active, licensed ARNPs in Florida.<sup>27</sup>

### **Effect of Proposed Changes:**

The bill amends s. 394.463, F.S., permitting an ARNP or PA to execute a certificate stating that a person, who the ARNP or PA has examined within the preceding 48 hours, appears to meet criteria for involuntary examination for mental illness.

Current law provides that physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists and clinical social workers may execute certificates for involuntary examination. These professions are required by statute to have experience and/or education in mental health treatment. PA's may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship and may perform tasks and procedures that are within the supervising physician's scope of practice.<sup>28</sup> The ARNP program requires students to have education in behavioral sciences.<sup>29</sup>

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<sup>20</sup> Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement.

<sup>21</sup> Section 464.012(2), F.S.

<sup>22</sup> Section 464.012(3), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 464.003(2), F.S., defines "Advanced or Specialized Nursing Practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

<sup>25</sup> Section 464.012(4), F.S.

<sup>26</sup> Section 464.012(4)(c)5, F.S.

<sup>27</sup> Florida Department of Health, Medical Quality Assurance Annual Report 2011-2012.

<sup>28</sup> Rule 64B8-30.012(1), F.A.C., and Rule 64B15-6.010(1), F.A.C.

<sup>29</sup> *Supra* note 19.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 394.463, F.S., relating to involuntary examination.

**Section 2:** Provides an effective date of July 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**





1                   A bill to be entitled  
 2           An act relating to involuntary examinations under the  
 3           Baker Act; amending s. 394.463, F.S.; authorizing  
 4           physician assistants and advanced registered nurse  
 5           practitioners to initiate involuntary examinations  
 6           under the Baker Act of persons believed to have mental  
 7           illness; providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Paragraph (a) of subsection (2) of section  
 12   394.463, Florida Statutes, is amended to read:

13           394.463 Involuntary examination.—

14           (2) INVOLUNTARY EXAMINATION.—

15           (a) An involuntary examination may be initiated by any one  
 16   of the following means:

17           1. A court may enter an ex parte order stating that a  
 18   person appears to meet the criteria for involuntary examination,  
 19   giving the findings on which that conclusion is based. The ex  
 20   parte order for involuntary examination must be based on sworn  
 21   testimony, written or oral. If other less restrictive means are  
 22   not available, such as voluntary appearance for outpatient  
 23   evaluation, a law enforcement officer, or other designated agent  
 24   of the court, shall take the person into custody and deliver him  
 25   or her to the nearest receiving facility for involuntary  
 26   examination. The order of the court shall be made a part of the  
 27   patient's clinical record. No fee shall be charged for the  
 28   filing of an order under this subsection. Any receiving facility

29 accepting the patient based on this order must send a copy of  
 30 the order to the Agency for Health Care Administration on the  
 31 next working day. The order shall be valid only until executed  
 32 or, if not executed, for the period specified in the order  
 33 itself. If no time limit is specified in the order, the order  
 34 shall be valid for 7 days after the date that the order was  
 35 signed.

36 2. A law enforcement officer shall take a person who  
 37 appears to meet the criteria for involuntary examination into  
 38 custody and deliver the person or have him or her delivered to  
 39 the nearest receiving facility for examination. The officer  
 40 shall execute a written report detailing the circumstances under  
 41 which the person was taken into custody, and the report shall be  
 42 made a part of the patient's clinical record. Any receiving  
 43 facility accepting the patient based on this report must send a  
 44 copy of the report to the Agency for Health Care Administration  
 45 on the next working day.

46 3. A physician, physician assistant, clinical  
 47 psychologist, psychiatric nurse, mental health counselor,  
 48 marriage and family therapist, ~~or~~ clinical social worker, or  
 49 advanced registered nurse practitioner may execute a certificate  
 50 stating that he or she has examined a person within the  
 51 preceding 48 hours and finds that the person appears to meet the  
 52 criteria for involuntary examination and stating the  
 53 observations upon which that conclusion is based. If other less  
 54 restrictive means are not available, such as voluntary  
 55 appearance for outpatient evaluation, a law enforcement officer  
 56 shall take the person named in the certificate into custody and

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57 deliver him or her to the nearest receiving facility for  
58 involuntary examination. The law enforcement officer shall  
59 execute a written report detailing the circumstances under which  
60 the person was taken into custody. The report and certificate  
61 shall be made a part of the patient's clinical record. Any  
62 receiving facility accepting the patient based on this  
63 certificate must send a copy of the certificate to the Agency  
64 for Health Care Administration on the next working day.

65 Section 2. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 115 Professional Licensure of Military Veterans by Department of Health

**SPONSOR(S):** Santiago

**TIED BILLS:** IDEN./SIM. BILLS: SB 160

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		O'Callaghan <i>mo</i>	O'Callaghan <i>mo</i>
2) Veteran & Military Affairs Subcommittee			
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

### SUMMARY ANALYSIS

HB 115 requires the Department of Health (DOH) to waive initial licensure fees for military veterans who apply for a fee waiver using a DOH form. A military veteran is only eligible for the fee waiver if the veteran has been honorably discharged from any branch of the United States Armed Forces within 24 months from the application. Current law does not allow the DOH or its regulatory boards to distinguish applicants for initial licensure based on military service.

The bill has an insignificant, negative fiscal impact on state government and no fiscal impact on local government.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Military and Veteran Presence in Florida

The United States currently has 1.4 million people serving in the United States Armed Forces,<sup>1</sup> over 23 million veterans living in the United States, and over 200 military installations in 46 states, the District of Columbia, and Puerto Rico.<sup>2</sup>

Florida, with its 20 major military installations, is home to a large population of active duty and reserve military members, as well as veterans. Currently, there are over 61,000 active duty military members<sup>3</sup> and 12,000 National Guard members<sup>4</sup> in Florida. The number of veterans living in Florida is over 1.6 million, the third highest in the nation behind California and Texas.<sup>5</sup>

While the majority of programs and benefits for military personnel and veterans are administered by the Federal Government, states and state legislatures are playing an increasingly larger role in military issues.

###### Professional Licensure Benefits for Military Members, Veterans, and Spouses

In recent years, the Florida Legislature has enacted laws to assist current military personnel, their spouses, and veterans in obtaining and renewing professional licensure in Florida.

In 2011, the Legislature created the Florida Defense Support Task Force (FDSTF) under s. 288.987, F.S.,<sup>6</sup> with a defined mission to:

- Make recommendations to preserve and protect military installations.
- Support the state's position in research and development related to or arising out of military missions and contracting.
- Improve the state's military-friendly environment for service members, military dependents, military retirees and businesses that bring military and base-related jobs to the state.

One of the FDSTF's long-range goals is to strengthen state support for military families and veterans with a focus on education, health care, employment and family programs.<sup>7</sup>

Current law<sup>8</sup> exempts military personnel from license renewal requirements for the duration of active duty while absent from the state of Florida, and for a period of six months after discharge or return to

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<sup>1</sup> Section 250.01, F.S., concerning Military Affairs in Florida, defines "Armed Forces" to mean the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

<sup>2</sup> National Conference of State Legislatures, *Military and Veterans Affairs*, available at: <http://www.ncsl.org/issues-research/env-res/military-and-veterans-affairs.aspx> (last visited on Feb. 5, 2013).

<sup>3</sup> University of West Florida: *Florida Defense Industry, Economic Impact Analysis*, pg. 14, 2013 Draft Report, on file with the Health Quality Subcommittee.

<sup>4</sup> Florida Department of Military Affairs, *Department of Military Affairs Mission*, available at: [http://dma.myflorida.com/?page\\_id=2](http://dma.myflorida.com/?page_id=2) (last visited on Feb. 5, 2013).

<sup>5</sup> California has approximately 2 million veterans and Texas has approximately 1.6 million veterans. United States Census Bureau, *A Snapshot of Our Nation's Veterans*, available at: [http://www.census.gov/how/pdf/census\\_veterans.pdf](http://www.census.gov/how/pdf/census_veterans.pdf) (last visited on Feb. 5, 2013). See also, Department of Veterans Affairs, *Texas and the U.S. Department of Veteran Affairs*, and *Florida and the U.S. Department of Veteran Affairs*, November 2010, on file with the Health Quality Subcommittee.

<sup>6</sup> The Florida Defense Support Task Force replaced the Florida Council on Military Base and Mission Support, which was dismantled when s. 288.984, F.S., was repealed in 2011. See s. 38, ch. 2011-76, L.O.F.

<sup>7</sup> The Florida Defense Support Task Force, *2011 Annual Report and 2012 Work Plan*, available at: <http://www.eflorida.com/fdstf/about.html> (last visited on Feb. 5, 2013).

the state. This benefit applies to military members who hold certain professional licenses regulated by the Department of Business and Professional Regulation (DBPR) or the DOH, who are not practicing their profession in the private sector.<sup>9</sup> This benefit is also available to the spouses of active duty military members.<sup>10</sup>

To address the obstacles military families face due to frequent moves, the Legislature enacted CS/CS/CS/HB 713 in 2010<sup>11</sup> and CS/CS/CS/HB 1319<sup>12</sup> in 2011 to allow the DBPR and the DOH, respectively, to issue a temporary professional license to the spouse of an active duty military member. To obtain a temporary license, the spouse must submit proof of marriage to the military member, proof that he or she holds an active license in another state or jurisdiction, and proof that the military member is assigned to a duty station in Florida.<sup>13</sup> In addition, the spouse must submit a complete set of his or her fingerprints to the Department of Law Enforcement for a statewide criminal history check.

Most recently, in 2012, the Legislature enacted CS/CS/HB 887,<sup>14</sup> which waives the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran who applies to the DBPR for a license within 24 months of being honorably discharged. These licensure fee waivers apply only to professions regulated by the DBPR and does not apply to health professions under the DOH.

#### Department of Health Regulated Professions

Section 20.43, F.S., creates several divisions under the DOH, including the Division of Medical Quality Assurance (division), which is responsible for the following boards established within the division:

- The Board of Acupuncture, created under chapter 457.
- The Board of Medicine, created under chapter 458.
- The Board of Osteopathic Medicine, created under chapter 459.
- The Board of Chiropractic Medicine, created under chapter 460.
- The Board of Podiatric Medicine, created under chapter 461.
- The Board of Optometry, created under chapter 463.
- The Board of Nursing, created under part I of chapter 464.
- The Board of Pharmacy, created under chapter 465.
- The Board of Dentistry, created under chapter 466.
- The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.
- The Board of Nursing Home Administrators, created under part II of chapter 468.
- The Board of Occupational Therapy, created under part III of chapter 468.
- The Board of Athletic Training, created under part XIII of chapter 468.
- The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.
- The Board of Massage Therapy, created under chapter 480.
- The Board of Clinical Laboratory Personnel, created under part III of chapter 483.
- The Board of Opticianry, created under part I of chapter 484.
- The Board of Hearing Aid Specialists, created under part II of chapter 484.
- The Board of Physical Therapy Practice, created under chapter 486.
- The Board of Psychology, created under chapter 490.
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

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<sup>8</sup> Sections 455.02(1) and 456.024(1), F.S.

<sup>9</sup> See also, s. 401.271, F.S., relating to certification of emergency medical technicians and paramedics who are on active duty with the United States Armed Forces.

<sup>10</sup> Sections 455.02(2) and 456.024(2), F.S.

<sup>11</sup> Section 5, ch. 2010-106, L.O.F.

<sup>12</sup> Section 1, ch. 2011-95, L.O.F.

<sup>13</sup> Sections 455.02(3) and 456.024(3), F.S.

<sup>14</sup> Section 3, ch. 2012-72, L.O.F.

In addition to the professions regulated by the various aforementioned boards, the DOH also regulates the following professions:

- Naturopathy, as provided under chapter 462.
- Nursing assistants, as provided under part II of chapter 464.
- Midwifery, as provided under chapter 467.
- Respiratory therapy, as provided under part V of chapter 468.
- Dietetics and nutrition practice, as provided under part X of chapter 468.
- Electrolysis, as provided under chapter 478.
- Medical physicists, as provided under part IV of chapter 483.
- School psychologists, as provided under chapter 490.
- Emergency medical technicians and paramedics, as provided under chapter 490.

Typical fees associated with obtaining an initial license include an initial licensing fee,<sup>15</sup> an initial application fee,<sup>16</sup> and an initial unlicensed activity fee.<sup>17</sup> Each board within the jurisdiction of the DOH, or the DOH when there is no board, determines by rule the amount of license fees for the profession it regulates.<sup>18</sup>

### **Effect of Proposed Changes**

HB 115 requires the DOH to waive the initial licensing fee, initial application fee, and initial unlicensed activity fee for a military veteran who applies to the DOH for a license within 24 months after being honorably discharged from any branch of the United States Armed Forces. The bill requires the application for a fee waiver to be submitted on a form prepared and furnished by the DOH.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 456.013, F.S., relating to the DOH's general licensing provisions.

**Section 2:** Provides an effective date of July 1, 2013.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

According to the DOH, it is indeterminate the number of military veterans that will apply for licensure, who have been honorably discharged from the United States Armed Forces within 24 months prior to applying for licensure; therefore, the fiscal impact cannot be determined at this time. However, it is anticipated that the bill will have an insignificant impact on the Medical Quality Assurance Trust Fund related to the reduction in licensing fees.<sup>19</sup>

According to the DOH, there will be a non-recurring increase in work associated with the modification of the Customer Oriented Medical Practitioner Administration System (COMPAS)

<sup>15</sup> Pursuant to s. 456.013(2), F.S., before the issuance of any license, the DOH shall charge an initial license fee as determined by the applicable board or, if there is no board, by rule of the DOH.

<sup>16</sup> Each DOH board, or the DOH when there is no board, determines by rule the amount of initial application fees for the profession it regulates pursuant to each practice act. *See e.g.*, ss. 458.311(1)(a), 459.0055(1)(a), and 460.406, F.S.

<sup>17</sup> Pursuant to s. 456.065, F.S., the DOH imposes upon initial licensure and each licensure renewal, a special fee of \$5 per license to fund efforts to combat unlicensed activity.

<sup>18</sup> Section 456.025(3), F.S.

<sup>19</sup> Florida Department of Health, HB 115 Agency Bill Analysis, January 9, 2013, on file with the Health Quality Subcommittee.



licensure system to accommodate the new requirements in the bill. The DOH states that current resources are adequate to absorb this one-time workload increase.<sup>20</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill eliminates fees associated with initial health care licensure for military veterans who have been honorably discharged from the United States Armed Forces within 24 months prior to applying for licensure.

**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:**

Sufficient rule-making authority currently exists under s. 456.004(5), F.S., to implement the provisions of this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

As drafted, the bill does not specify whether the applicant must submit any supporting documentation, or what type of documentation needs to be submitted, to prove that the applicant has been honorably discharged and is therefore eligible for the fee waiver.

The bill, as written, is not clear as to whether a military veteran honorably discharged after initial application, but within 24 months of that application, would be eligible for a refund of the initial application, licensing, and unlicensed activity fees.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>20</sup> *Id.*

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A bill to be entitled  
 An act relating to professional licensure of military veterans by the Department of Health; amending s. 456.013, F.S.; requiring the Department of Health to waive specified fees related to licensure of professions within the jurisdiction of the department for honorably discharged military veterans; providing procedure for application for waiver; providing an effective date.

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

Section 1. Subsection (13) is added to section 456.013, Florida Statutes, to read:

456.013 Department; general licensing provisions.—

(13) The department shall waive the initial licensing fee, initial application fee, and initial unlicensed activity fee for a military veteran who applies to the department for a license within 24 months after being honorably discharged from any branch of the United States Armed Forces. The application for waiver must be submitted on a form prepared and furnished by the department.

Section 2. This act shall take effect July 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee

3 Representative Santiago offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove lines 18-22 and insert:

7 a military veteran who applies to the department for an initial  
8 license within 24 months after being honorably discharged from  
9 any branch of the United States Armed Forces. The applicant must  
10 apply for the fee waiver using a form prescribed by the  
11 department and must submit supporting documentation as required  
12 by the department.

13 Section 2. Subsection (1) of section 468.304, Florida  
14 Statutes, is amended to read:

15 468.304 Certification.—The department shall certify any  
16 applicant who meets the following criteria:

17 (1) Pays to the department a nonrefundable fee that may  
18 not exceed \$100, plus the actual per-applicant cost to the  
19 department for purchasing the examination from a national  
20 organization. The department shall waive the initial application



Amendment No.

21 fee for a military veteran who applies to the department for an  
22 initial certification within 24 months after being honorably  
23 discharged from any branch of the United States Armed Forces.  
24 The applicant must apply for the fee waiver using a form  
25 prescribed by the department and must submit supporting  
26 documentation as required by the department. This waiver does  
27 not include the fee for purchasing the examination from a  
28 national organization.

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30 The department may not certify any applicant who has committed  
31 an offense that would constitute a violation of any of the  
32 provisions of s. 468.3101 or applicable rules if the applicant  
33 had been certified by the department at the time of the offense.  
34 An application for a limited computed tomography certificate may  
35 not be accepted. A person holding a valid computed tomography  
36 certificate as of October 1, 1984, is subject to s. 468.309.

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**T I T L E   A M E N D M E N T**

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Remove lines 3-8 and insert:

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veterans by the Department of Health; amending ss.

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456.013 and 468.304, F.S.; requiring the Department of

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Health to waive specified fees relating to licensure

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and certification of professions within the

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jurisdiction of the department for honorably

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discharged military veterans; providing for

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application and waiver requirements; providing an