

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 760

INTRODUCER: Fiscal Policy Committee; Health Policy Committee; and Senators Bradley and Sobel

SUBJECT: Child Protection

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Harper</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 760 requires the Statewide Medical Director for Child Protection be a physician licensed under chs. 458 or 459, F.S., who is board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics.

The bill requires each medical director to be a physician licensed under chs. 458 or 459, F.S. The bill also requires a medical director to be either board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics or hold a credential from a third-party entity within 4 years from the date of employment or, if currently employed, within 4 years of July 1, 2015. All medical personnel participating on a child protection team must successfully complete the required CPT training curriculum. The bill also provides that the critical incident rapid response team must include a child protection team medical director.

The bill allows physicians with expert witness certificates under ss. 458.3175(2) and 459.0066, F.S., to provide expert testimony in criminal child abuse and neglect cases

Subject to a specific appropriation, the Department of Health (DOH) must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors. The department estimated this would cost \$70,000 the first year, and \$25,000 annually.

II. Present Situation:

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that works with local Sheriff's offices and the Department of Children and Families (DCF) in cases of child abuse and neglect to supplement investigation activities.¹ Section 39.303, F.S., governs CPTs, and requires the Children's Medical Services Program (CMS) in the Department of Health (DOH) to develop, maintain, and coordinate the services of the CPTs in each of the service districts of the DCF. CPT medical directors are responsible for oversight of the teams.²

CPTs are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect. Specifically, CPTs help assess risk and protective factors, and provide recommendations for interventions that protect children.³

Child abuse, abandonment, and neglect reports that must be referred to CPTs include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.⁴

Child Protection Team Medical Director(s)

There is currently no statutory related qualifications of either the Statewide Medical Director for Child Protection or the team medical directors. However, the Florida Administrative Code provides that each CPT function under the oversight of a CMS approved provider pediatrician whose title is Child Protection Team Medical Director.⁵ According to the rule, the minimum qualifications for this position are:

- Graduation from an accredited school of medicine with board certification in pediatrics and licensed to practice in Florida.

¹ Children's Medical Services, *Child Protection Teams*, (Aug. 30, 2012) available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Mar. 31, 2015).

² Section 39.303, F.S.

³ Children's Medical Services, *Child Protection Team Brochure*, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/documents/child_protection_brochure.pdf (last visited Mar. 31, 2015).

⁴ *Supra* note 2 at (2).

⁵ Chapter 64C-8.002, F.A.C.

- An approved CMS physician provider.
- Demonstrated interest in the field of child abuse and neglect and satisfactory completion of training deemed necessary by the DOH for evaluating alleged abuse and neglect.
- Availability to provide oversight of team and client assessments.⁶

The State Surgeon General and the Deputy Secretary for the CMS, in consultation with the Secretary of Children and Families, have the responsibility for the screening, employment, and any necessary termination of child protection team medical directors, both at the state and district level.⁷

As of February 24, 2015, there are 24 local CPT medical directors in the state of Florida. One of the 24 medical director positions is vacant; two districts also have an associate medical director; and one district also has a clinical director.⁸

Specialty Certification for Child Abuse Pediatrics

The American Board of Medical Specialties approved the child abuse pediatrics specialty in 2006.⁹ The Child Abuse Pediatric certification exam requires a person to be certified in General Pediatrics and to have completed a 3-year child abuse pediatrics fellowship at an accredited program.¹⁰ The American Board of Pediatrics administered the first certification exams in late 2009.¹¹

Child abuse pediatricians diagnose and treat children and adolescents who are suspected child abuse victims. The types of abuse a child abuse pediatrician can treat includes physical abuse, sexual abuse, factitious illness (medical child abuse), neglect, and psychological/emotional abuse. Child abuse pediatricians can give expert testimony in court proceedings involving child abuse.¹²

As of December 31, 2013, Florida has 12 physicians certified in Child Abuse Pediatrics and 9 of those 12 are currently CPT medical directors.¹³

Critical Incident Rapid Response Team

Critical Incident Rapid Response Teams (CIRRT) are established by the DCF to conduct investigations of child death or other serious incidents reported to the central abuse hotline if the child or another child in his or her home was the subject of a verified report of abuse or neglect

⁶ Chapter 64C-8.002(1), F.A.C.

⁷ *Supra* note 2.

⁸ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, (Feb. 24, 2015) available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last visited Mar. 31, 2015).

⁹ HealthLeaders Media, *New Specialty Certification for Child Abuse Pediatrics*, (Nov. 6, 2009) available at <http://www.healthleadersmedia.com/content/PHY-241751/New-Specialty-Certification-for-Child-Abuse-Pediatrics.html> (last visited Mar. 31, 2015).

¹⁰ Council of Pediatric Subspecialties, *Pediatric Child Abuse*, (Nov. 5, 2013) available at <http://pedsubs.org/SubDes/ChildAbuse.cfm> (last visited Mar. 31, 2015).

¹¹ *Supra* note 9.

¹² *Supra* note 10.

¹³ Department of Health, *Senate Bill 760 Analysis*, (Feb. 17, 2015) (on file with the Senate Committee on Health Policy).

within the previous 12 months.¹⁴ The CIRRT is a multiagency team comprised of at least five professionals with expertise in child protection, child welfare, and organizational management. A CPT member is not required to be appointed to the CIRRT.¹⁵

Expert Testimony

Section 458.3175, F.S., authorizes the DOH to issue expert witness certificates to physicians who have an active and valid license to practice medicine in another state or in Canada. A physician must submit a registration application and a \$50 registration fee to the DOH, which has 10 business days to approve a complete application. An expert witness certificate is valid for 2 years and allows a physician to provide:

- A verified written medical opinion; and
- Expert testimony in a medical negligence case against a licensed Florida physician about the prevailing professional standard of care.¹⁶

Section 459.0066, F.S., provides the DOH the same authority to issue expert witness certificates to physicians who have an active license to practice osteopathic medicine in another state or in Canada.

Section 827.03, F.S., allows expert testimony in criminal child abuse cases be provided by physicians licensed under chs. 458 or 459, F.S., who have either an expert witness certificate pursuant to s. 458.3175, F.S., or a residency in psychiatry.¹⁷

However, s. 458.3175, F.S., does not allow for physicians to provide such testimony.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 39.2015, F.S., to require a CIRRT to include a CPT medical director.

Section 2 amends s. 39.303, F.S., to require the Statewide Medical Director for Child Protection to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics. This will ensure that the statewide medical director who is responsible for supervising other pediatricians on child protection teams will hold the same or similar credentials.

The bill also requires each medical director to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics. In addition, within 4 years after the date of employment as medical director, he or she must obtain a subspecialty certification in child abuse from the American Board of Pediatrics or meet the minimum requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics. Additionally, **Section 3** provides that each CPT medical director employed on July 1, 2015,

¹⁴ Section 39.2015(2), F.S.

¹⁵ Section 39.2015(3), F.S.

¹⁶ Section 458.3175, F.S.

¹⁷ Section 827.03(3), F.S.

¹⁸ Section 458.3175, F.S.

must, within 4 years, meet the same certification or credential requirements. This will ensure that all medical directors have a recognized degree of competence.

The bill requires all medical personnel participating on a CPT to successfully complete the required CPT training curriculum as determined by the Deputy Secretary for CMS and the Statewide Medical Director for Child Protection.

Subject to a specific appropriation, the DOH must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors. Within 90 days from receiving documentation from a third-party credentialing entity, the DOH must approve a third-party entity that meets the following minimum standards:

- Establishment of child abuse pediatrics core competencies, certification standards, testing instruments, and recertification standards according to national psychometric standards.
- Establishment of a process to administer the certification application, award, and maintenance processes according to national psychometric standards.
- Demonstrated ability to administer a professional code of ethics and disciplinary process that applies to all certified persons
- Establishment of, and ability to maintain, a publicly accessible Internet-based database that contains information on each person who applies for and is awarded certification, such as the person's first and last name, certification status, and ethical or disciplinary history.
- Demonstrated ability to administer biennial continuing education and certification renewal requirements.
- Demonstrated ability to administer an education provider program to approve qualified training entities and to provide precertification training to applicants and continuing education opportunities to certified professionals.

Section 6 amends s. 39.301, F.S., to correct the renumbering caused by the amendment to s. 39.303, F.S.

Sections 8 – 9 reenact ss. 39.3031 and 391.026, F.S., to incorporate the amendment to s. 39.303, F.S.

Sections 4 – 5 authorize a physician who obtains an expert witness certificate under ss. 458.3175 or 459.006, F.S., to provide expert testimony in criminal child abuse and neglect cases. **Section 7** amends s. 827.03(3)(a) and (b), F.S., to authorize a physician with an expert witness certificate issued under s. 459.0066, F.S., to provide expert testimony in criminal child abuse and neglect cases.

Section 10 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CPT medical directors may incur costs to obtain the required subspecialty certification. The exam fee for the subspecialty certification in child abuse is \$2,900 and the certification period is 10 years. To maintain the subspecialty certification in Child Abuse, the physician must enroll in maintenance of certification requirements every 5 years at a cost of \$1,230.¹⁹ There are 24 CPT medical directors, 9 of which are currently certified in Child Abuse Pediatrics.

C. Government Sector Impact:

The DOH must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors, subject to an appropriation. The department estimated to accomplish this would cost \$70,000 the first year, and \$25,000 annually, which would have to come from General Revenue.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.2015, 39.301, 39.303, 458.3175, 459.0066, and 827.03.

This bill reenacts the following sections of the Florida Statutes: 39.3031, and 391.026(2).

¹⁹ *Supra* note 13.

²⁰ *Id.*

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on April 9, 2015:

The committee substitute:

- Requires a CIRRT to include a CPT medical director.
- Provides each medical director an additional 2 years to meet the requirements to obtain a certain certification or credential, and requires currently employed medical directors to obtain a certain certification or credential within 4 years of July 1, 2015.
- Requires the Department of Health to approve third-party credentialing entities to develop and administer a credentialing program for medical directors, which is subject to an appropriation.
- Authorizes physicians who obtain an expert witness certificate under ss. 458.3175 or 459.006, F.S., to provide expert testimony in criminal child abuse and neglect cases.

CS by Health Policy on March 23, 2015:

The CS conforms provisions relating to activities an expert witness certificate issued by the DOH authorizes under ch. 458, F.S., with existing law. The CS reenacts the following sections of the Florida Statutes: 766.102(12), 827.03(3)(a) and (b), and 960.03(3)(a).

B. Amendments:

None.