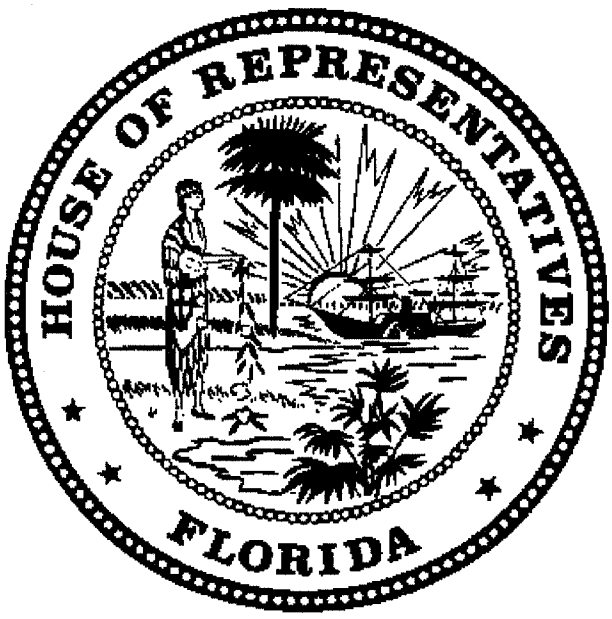

Health & Human Services Quality Subcommittee

Tuesday, December 6, 2011
8:00 AM – 10:30 AM
306 HOB

Dean Cannon
Speaker

John Wood
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Quality Subcommittee

Start Date and Time:	Tuesday, December 06, 2011 08:00 am
End Date and Time:	Tuesday, December 06, 2011 10:30 am
Location:	306 HOB
Duration:	2.50 hrs

Consideration of the following bill(s):

HB 171 Osteopathic Physicians by Trujillo
HB 241 Emergency Medical Services by Perry
HB 363 Physician Assistants by Kreegel
HB 413 Chiropractic Medicine by Mayfield
HB 479 Animal Control by O'Toole
HB 4005 Department of Health by Diaz
HB 4029 Mosquito Control Districts by Albritton
HB 4105 Agency for Health Care Administration by Nuñez

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, December 5, 2011.

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., Monday, December 5, 2011.

NOTICE FINALIZED on 11/29/2011 16:15 by Iseminger.Bobbye

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 171 Osteopathic Physicians
SPONSOR(S): Trujillo
TIED BILLS: **IDEN./SIM. BILLS:** SB 414

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

SUMMARY ANALYSIS

The bill amends the standard by which the Department of Health, Board of Osteopathic Medicine (board), must make a decision on whether to deny a license. Currently, the board is allowed to deny a license by examination if they have an interruption in their practice for at least two years and the board determines that the interruption adversely affects their "present ability and fitness to practice." The bill allows the board to deny or place conditions on the license of any applicant, whose practice of osteopathic medicine has been interrupted for more than two years, and if the board determines that an applicant "may lack clinical competency, possess diminished or inadequate skills, lack necessary medical knowledge, or exhibit patterns of deficits in clinical decision making." Furthermore, the board currently does not have the authority to place any conditions on a license, it can either approve or deny. The bill will provide the board more flexibility; it will be able to approve licenses with conditions.

Additionally, the bill removes requirements that an applicant seeking a residency license successfully pass all parts of the national exam, and complete a 12-month residency program to be eligible for a license. A resident physician license is designed to enable a person who holds a degree of Doctor of Osteopathic Medicine to participate in a residency training program prior to seeking a full license to practice osteopathic medicine.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

All states have rules that govern the ability of health care practitioners to practice medicine. These laws were enacted under the police power reserved to the states by the U.S. Constitution to adopt laws to protect the health, safety and general welfare of their citizens.[1] This gives states the ability to effectively monitor the quality of persons wishing to practice medicine in a specific area. In addition, most state statutes delegate authority for enforcing licensure laws to state boards. Each state determines the tests and procedures for licensing its health care practitioners.

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils. Boards are responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations. Licensed osteopathic physicians (DOs) are governed by rules adopted by the Board of Osteopathic Medicine.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.[2] Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Osteopathic Physicians

Osteopathic physicians are licensed for the full practice of medicine and surgery in all 50 states.[3] In Florida, DOs are governed by chapter 459, F.S., the osteopathic medicine practice act. Osteopathic medicine is defined as the diagnosis, treatment, or prescription for any human disease, pain, injury, deformity or other physical or mental condition, which practice is based upon the educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health[4]. Currently, there are 4,208 individuals who hold an active in-state license to practice as a DO in Florida.[5]

Board of Osteopathic Medicine

The Board of Osteopathic Medicine (board) is composed of seven members as follows:[6]

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[1] U.S. CONST., Article X.
[2] S. 456.001, F.S.
[3] American Medical Association, Physician Licensure: An Update of Trends. *Available at*: http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/young-physicians-section/advocacy-resources/physician-licensure-an-update-trends.page (last viewed November 28, 2011).
[4] S. 459.003(3), F.S.
[5] Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at*: http://doh.state.fl.us/mqa/reports.htm (last viewed October 27, 2011).
[6] S. 459.004, F.S.

- Five members of the board must be licensed DOs in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to their appointment.
- Two members must be citizens of the state who are not, and have never been, licensed health care practitioners.
- At least one of the seven members must be 60 years of age or older.

All board members are appointed by the Governor and confirmed by the Senate. Members of the board are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

As of June 30, 2010, there were 68 in-state delinquent licenses held by a DO.[7] The board received 552 complaints of DOs practicing outside their scope practice from July 1, 2010 to June 30, 2011.[8] Also during this timeframe, the DOH issue emergency suspension orders for seven licensed DOs immediately prohibiting them from practicing.[9]

Licensure

In Florida, a person desiring to be licensed as a DO must:[10]

- Complete an application and remit $200 application fee;[11]
- Be at least 21 years of age;
- Be of good moral character; and
- Have completed at least 3 years of pre-professional postsecondary education;
- Not be under investigation for any act that would violate the osteopathic medicine practice act unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Have not had an application for a license to practice osteopathic medicine denied, revoked, suspended, or acted against by any licensing authority unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Not have received less than satisfactory evaluation from an internship, residency, or fellowship training program, unless the board determines that the act doesn't adversely affect the applicant's present ability and fitness to practice;
- Submit a set of fingerprints and remit $ 43.25 for the background screening fee;[12]
- Demonstrate they are a graduate of a medical college recognized and approved by the American Osteopathic Association;
- Demonstrate that they have completed a resident internship for at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or a program approved by the board.

Licensure by examination is the process by which a physician, having met all other qualifications for licensure, qualifies for licensure by passing an examination offered by an approved body or accredited entity. In Florida, individuals seeking licensure as a DO must demonstrate that they have obtained passing scores on all parts of the exam offered by the National Board of Osteopathic Medical Examiners (NBOME) within 5 years of submitting an application.[13]

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[7] *Ibid.*
[8] *Ibid.*
[9] Florida Department of Health, Division of Medical Quality Assurance, 201-2011 MQA Annual Report, *available at:* http://doh.state.fl.us/mqa/reports.htm (last viewed November 28, 2011).
[10] S. 459.0055, F.S.
[11] 64B15-10.002, F.A.C.
[12] Florida Department of Health, Division of Medical Quality Assurance, Background Screening Matrix: Osteopathic Physician, *available at:* http://www.doh.state.fl.us/mqa/background.html (last viewed November 28, 2011).
[13] S. 459.0055(1)(m), F.S. and 64B15-12.003, F.A.C.

Licensure by endorsement is the process by which a physician licensed in one state seeks a license from a second state.[14] If an individual holds a valid DO license from another state and wishes to practice medicine in Florida, he or she is required to submit evidence to the board that they possess an active license from another state or jurisdiction.[15] The initial license from another jurisdiction must have occurred less than 5 years after of receiving a passing score on the examination administered by the NBOME or a similar examination recognized by the Florida Board of Osteopathic Medicine.[16] Additionally, the DO must have practiced medicine recently. If the DO has not practiced for more than 2 years, then the board has the discretion to determine if the lapse in time has adversely affected the DOs present ability and fitness to practice osteopathic medicine.[17] If the board determines that the lapse in time has adversely affected the DO's ability to practice medicine, than the board must deny the application for licensure to practice in Florida.[18]

National Board of Osteopathic Medical Examiners

The NBOME is a not-for-profit corporation dedicated to serving the public and state licensing agencies by administering examinations testing the medical knowledge of those who seek to serve the public as osteopathic physicians.[19] The examination administered by the NBOME is called the "COMLEX-USA." This exam is designed to assess the osteopathic medical knowledge and clinical skills considered essential for osteopathic generalist physicians to practice medicine without supervision. COMLEX-USA is administered in three Levels:

- Level 1-emphasizes the scientific concepts and principles necessary for understanding the mechanisms of health, medical problems and disease processes.
- Level 2- emphasizes the medical concepts and principles necessary for making appropriate medical diagnoses through patient history and physical examination findings
- Level 3-emphasizes the medical concepts and principles required to make appropriate patient management

Resident Physician

Section 459.021, F.S., allows an individual who does not hold an active license to practice osteopathic medicine, but holds a degree of Doctor of Osteopathic Medicine from a college of osteopathic medicine recognized and approved by the American Osteopathic Association, to apply for a resident physician license. A resident physician license allows a DO to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in a fellowship training program. The training program is available to individuals who are seek a subspecialty board certification or wish to participate in residency training. The training program must be conducted at a teaching hospital.[20] Individuals must meet all requirements for an active full license, to include passing all parts of the national exam and completing a 12-month residency, to be eligible for a resident physician license.[21]

Effect of the Proposed Changes

The bill amends the standard by which the DOH and board must make a decision on whether to deny a license. Currently, the board is allowed to deny a license by examination if the applicant has had an interruption in practice for at least two years and the board determines that the interruption adversely affects the "present ability and fitness to practice." The bill changes the board's standard for

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[14] American Medical Association, Physician Licensure: An Update of Trends. *Available at*: http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/young-physicians-section/advocacy-resources/physician-licensure-an-update-trends.page (last viewed November 28, 2011).
[15] S. 459.0055(2), F.S.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] National Board of Osteopathic Medical Examiners, About. *Available at*: http://www.nbome.org/about.asp?m=inf (last viewed November 29, 2011).
[20] S. 459.021(1), F.S.
[21] S. 459.021 (6), F.S.

determining the effect of a lapse in practice to a determination of whether the applicant "may lack clinical competency, possess diminished or inadequate skills, lack necessary medical knowledge, or exhibit patterns of deficits in clinical decision making." The impact of the change in standards is unclear. The bill allows the board to deny or place conditions on the license of any applicant if it makes such a determination. The bill will provide the board more flexibility; it will be able to approve licenses with conditions.

Additionally, the bill removes requirements that an applicant seeking a residency license successfully pass all parts of the national exam, and complete a 12-month residency program to be eligible for a license. A resident physician license is designed to enable a person who holds a degree of Doctor of Osteopathic Medicine to participate in a residency training program prior to seeking a full license to practice osteopathic medicine.

The bill removes the outdated license types of "assistant resident physician" and "house physician" which are no longer available for the profession.

B. SECTION DIRECTORY:

Section 1. Amends s. 459.0055, F.S., relating to general licensure requirements.
Section 2. Amends s. 459.021, F.S., relating to registration of resident physicians, interns, and fellows.
Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None identified

2. Expenditures:

   None identified.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified.

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:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On lines 71-72 of the bill, the terms "assistant resident physician" and "house physician" are not stricken, but are stricken on lines 68-69.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to osteopathic physicians; amending s. 459.0055, F.S.; revising the requirements for licensure or certification as an osteopathic physician in this state; amending s. 459.021, F.S.; revising provisions relating to registration of physicians, interns, and fellows; providing an effective date.

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

Section 1. Paragraph (m) of subsection (1) and subsection (2) of section 459.0055, Florida Statutes, are amended to read:

459.0055 General licensure requirements.—

(1) Except as otherwise provided herein, any person desiring to be licensed or certified as an osteopathic physician pursuant to this chapter shall:

(m) Demonstrate that she or he has obtained a passing score, as established by rule of the board, on all parts of the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the board no more than 5 years before making application in this state or, if holding a valid active license in another state, that the initial licensure in the other state occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Osteopathic Medical Examiners or other substantially similar examination approved by the board.

(2) If the applicant holds a valid active license in

another state and it has been more than 2 years since the active practice of osteopathic medicine, or if an applicant does not hold a valid active license to practice osteopathic medicine in another state and it has been more than 2 years since completion of a resident internship, residency, or fellowship, and the board determines that the applicant may lack clinical competency, possess diminished or inadequate skills, lack necessary medical knowledge, or exhibit patterns of deficits in clinical decisionmaking, the board may:

(a) Deny the application;

(b) Issue a license having reasonable restrictions or conditions that may include, but are not limited to, a requirement for the applicant to practice under the supervision of a physician approved by the board; or

(c) Issue a license upon receipt of documentation confirming that the applicant has met any reasonable conditions of the board which may include, but are not limited to, completing continuing education or undergoing an assessment of skills and training. ~~For an applicant holding a valid active license in another state, he or she shall submit evidence of the active licensed practice of medicine in another jurisdiction in which initial licensure must have occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Medical Examiners or other substantially similar examination approved by the board; however, such practice of osteopathic medicine may have been interrupted for a period totaling no more than 2 years or for a longer period if the board determines that the interruption of~~

~~the osteopathic physician's practice of osteopathic medicine for such longer period has not adversely affected the osteopathic physician's present ability and fitness to practice osteopathic medicine.~~

Section 2. Subsections (1), (3), (4), and (6) of section 459.021, Florida Statutes, are amended to read:

459.021 Registration of resident physicians, interns, and fellows; list of hospital employees; penalty.—

(1) Any person who holds a degree of Doctor of Osteopathic Medicine from a college of osteopathic medicine recognized and approved by the American Osteopathic Association who desires to practice as a resident physician, ~~assistant resident physician, house physician,~~ intern, or fellow in fellowship training which leads to subspecialty board certification in this state, or any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training in a teaching hospital in this state as defined in s. 408.07(45) or s. 395.805(2), who does not hold an active license issued under this chapter shall apply to the department to be registered, on an application provided by the department, before commencing such a training program and shall remit a fee not to exceed $300 as set by the board.

(3) Every hospital or teaching hospital having employed or contracted with or utilized the services of a person who holds a degree of Doctor of Osteopathic Medicine from a college of osteopathic medicine recognized and approved by the American Osteopathic Association as a resident physician, ~~assistant resident physician, house physician,~~ intern, or fellow in

fellowship training registered under this section shall designate a person who shall furnish, on dates designated by the board, in consultation with the department, to the department a list of all such persons who have served in such hospital during the preceding 6-month period. The chief executive officer of each such hospital shall provide the executive director of the board with the name, title, and address of the person responsible for filing such reports.

(4) The registration may be revoked or the department may refuse to issue any registration for any cause which would be a ground for its revocation or refusal to issue a license to practice osteopathic medicine, as well as on the following grounds:

(a) Omission of the name of an intern, resident physician, ~~assistant resident physician, house physician,~~ or fellow in fellowship training from the list of employees required by subsection (3) to be furnished to the department by the hospital or teaching hospital served by the employee.

(b) Practicing osteopathic medicine outside of a bona fide hospital training program.

(6) Any person desiring registration pursuant to this section shall meet all the requirements of s. 459.0055, except paragraphs (1)(l) and (m).

Section 3. This act shall take effect July 1, 2012.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative Trujillo offered the following:

Amendment

Remove lines 33-72 and insert:

of a resident internship, residency, or fellowship, and if the board determines that the interruption in practice has adversely affected the osteopathic physician's present ability and fitness to practice, the board may:

(a) Deny the application;

(b) Issue a license having reasonable restrictions or conditions that may include, but are not limited to, a requirement for the applicant to practice under the supervision of a physician approved by the board; or

(c) Issue a license upon receipt of documentation confirming that the applicant has met any reasonable conditions of the board which may include, but are not limited to, completing continuing education or undergoing an assessment of

skills and training. ~~For an applicant holding a valid active license in another state, he or she shall submit evidence of the active licensed practice of medicine in another jurisdiction in which initial licensure must have occurred no more than 5 years after the applicant obtained a passing score on the examination conducted by the National Board of Medical Examiners or other substantially similar examination approved by the board; however, such practice of osteopathic medicine may have been interrupted for a period totaling no more than 2 years or for a longer period if the board determines that the interruption of the osteopathic physician's practice of osteopathic medicine for such longer period has not adversely affected the osteopathic physician's present ability and fitness to practice osteopathic medicine.~~

Section 2. Subsections (1), (3), (4), and (6) of section 459.021, Florida Statutes, are amended to read:

459.021 Registration of resident physicians, interns, and fellows; list of hospital employees; penalty.—

(1) Any person who holds a degree of Doctor of Osteopathic Medicine from a college of osteopathic medicine recognized and approved by the American Osteopathic Association who desires to practice as a resident physician, ~~assistant resident physician, house physician,~~ intern, or fellow in fellowship training which leads to subspecialty board certification in this state, or any person desiring to practice as a resident physician, ~~assistant resident physician, house physician,~~ intern, or fellow in

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 241 Emergency Medical Services
SPONSOR(S): Perry
TIED BILLS: **IDEN./SIM. BILLS:** SB 450

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

SUMMARY ANALYSIS

In 2009, the U.S. Department of Transportation released the new National Emergency Medical Services (EMS) Education Standards for emergency medical technicians (EMTs) and paramedics. The bill updates Florida's EMT and paramedic training requirements to reflect the new 2009 national training standards.

The bill amends the definition of "basic life support" to update the definition to include the name of the new National EMS Education Standards, removes outdated competencies that are captured within the training course and makes conforming changes. The bill increases the timeframe within which EMTs and paramedics can take the state examination following successful completion of an approved training program from 1 to 2 years.

The bill removes the requirement that EMTs and paramedics obtain HIV/AIDS continuing education instruction. The bill amends the timeline that the state emergency medical services plan is updated from biennially to every five years.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Emergency Medical Technicians and Paramedics

The Department of Health (DOH), Division of Emergency Operations regulates emergency medical technicians (EMTs) and paramedics. EMTs and paramedics are regulated pursuant to ch. 401, Part III, F.S. As of June 30, 2011, there were 33,079 active in-state licensed EMTs and 25,104 active in-state licensed paramedics in Florida.[1]

Currently, the DOH is responsible for the improvement and regulation of basic and advanced life support programs and is required to biennially develop and revise a comprehensive state plan for basic and advanced life support services.[2]

HIV and AIDS Training Requirements

In 2006, the Legislature revised the requirements for HIV/AIDS continuing education instruction in the general licensing provisions for health practitioners[3] regulated by s. 456.033, F.S.[4] The law removed the requirement that the HIV/AIDS continuing education course be completed at each biennial license renewal. Instead, licensees are required to submit confirmation that he or she has completed a course in HIV/AIDS instruction at the time of the first licensure renewal or recertification.[5]

Section 381.0034, F.S., requires the following practitioner groups to complete an HIV/AIDS educational course at the time of biennial licensure renewal or recertification:

- EMTs and paramedics;
- Midwives;
- Radiologic personnel; and
- Laboratory personnel.

Failure to complete the HIV/AIDS continuing education requirement is grounds for disciplinary action.[6]

National EMS Education Standards

In 2009, the U.S. Department of Transportation released the new National Emergency Medical Services (EMS) Education Standards (Standards), which replaces the National Highway Traffic Safety Administration, National Standard Curricula (or Emergency Medical Technician-Basic Standard Curriculum) at all licensure levels.[7]

The Standards define the minimal entry-level educational competencies, clinical behaviors, and judgments that must be met by EMS personnel to meet national practice guidelines.[8] The Standards

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[1] Florida Department of Health, Division of Medical Quality Assurance, Annual Report: July 1, 2010-June 30, 2011, *available at*: http://www.doh.state.fl.us/mqa/reports.htm (last viewed November 17, 2011).
[2] S. 401.24, F.S.
[3] Acupuncturist, physician, osteopathic physician, chiropractic physician, podiatric physician, certified optometrist, advanced registered nurse practitioner, registered nurse, clinical nurse specialist, pharmacist, dentist, nursing home administrator, occupational therapist, respiratory therapist, or nutritionist; and physical therapists.
[4] *See* 2006-251, L.O.F.
[5] S. 456.033, F.S.
[6] S. 381.0034(2), F.S.
[7] National Highway Traffic Safety Administration, Emergency Medical Services, Educational Standards and NSC: National Emergency Medical Services Education Standards, *available at*: http://www.ems.gov/education/nationalstandardandncs.html (last viewed November 17, 2011).
[8] *Id.*

provide guidance to instructors, regulators, and publishers to provide interim support as EMS programs across the nation transition from the National Standard Curricula to the National EMS Education Standards.

The Standards assume there is a progression in practice from the entry-level Emergency Medical Responder level to the Paramedic level.[9] That is, licensed personnel at each level are responsible for all knowledge, judgments, and behaviors at their level and at all levels preceding their level.[10] According to the Standards, there are four licensure levels of EMS personnel: Emergency Medical Responder; Emergency Medical Technician; Advanced Emergency Medical Technician; and Paramedic.[11] For example, a Paramedic is responsible for knowing and doing everything identified in that specific area, as well as knowing and doing all tasks in the three preceding levels. Components of the EMS national agenda[12] included creating a single National EMS Accreditation Agency and a single National EMS Certification Agency to ensure consistency and quality of EMS personnel.[13]

Effect of Proposed Changes

The bill removes the requirement that EMTs and paramedics complete HIV/AIDS continuing education instruction. EMTs and paramedics currently employ "universal precautions" in the field. Under the concept of "universal precautions", all patients are considered to be carriers of blood-borne pathogens, including HIV/AIDS. Therefore, additional continuing education regarding HIV/AIDS could be considered duplicative and unnecessary.[14]

The bill amends the definition of "basic life support" to update the definition to include the name of the new National EMS Education Standards and removes outdated competencies that are captured within the training curriculum. The bill makes conforming changes by removing "emergency medical technician basic training course" and adding "National EMS Education Standards," which aligns with the most current national standard. The bill also increases the timeframe that EMTs and paramedics can take the state examination following successful completion of an approved training program from 1 to 2 years.

The bill amends the timeline that the state emergency medical services plan is updated from biennially to every five years.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.0034, F.S., relating to the requirements for instruction on HIV and AIDS.
Section 2. Amends s. 401.23, F.S., relating to definitions.
Section 3. Amends s. 401.24, F.S., relating to emergency medical services state plan.
Section 4. Amends s. 401.27, F.S., relating to personnel standards and certification.
Section 5. Amends s. 401.2701, F.S., relating to emergency medical services training programs.
Section 6. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] The EMS Agenda for the Future project was supported by the National Highway Traffic Safety Administration and the Health Resources and Services Administration, Maternal and Child Health Bureau. The project reviewed the lessons learned during the past 30 years in the field of emergency medical services (EMS) and provided direction to strengthen the EMS system. *Available at:* http://www.nhtsa.gov/people/injury/ems/agenda/emsman.html#SUMMARY (last viewed November 17, 2011).
[13] U.S. Department of Transportation, National Emergency Medical Services Education Standards, *available at:* http://www.ems.gov/education/nationalstandardandncs.html (last viewed November 17, 2011),
[14] Per telephone conversation with DOH, Division of Emergency Operations staff (March 2011).

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None identified at this time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to emergency medical services; amending s. 381.0034, F.S.; deleting the requirement for emergency medical technicians and paramedics to complete an educational course on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome; amending s. 401.23, F.S.; redefining the term "basic life support" for purposes of the Raymond H. Alexander, M.D., Emergency Medical Transportation Services Act; amending s. 401.24, F.S.; revising the period for review of the comprehensive state plan for emergency medical services and programs; amending s. 401.27, F.S.; revising the requirements for certification or recertification as an emergency medical technician or paramedic; revising the requirements for certification for an out-of-state trained emergency medical technician or paramedic; amending s. 401.2701, F.S.; revising requirements for an institution that conducts an approved program for the education of emergency medical technicians and paramedics; revising the requirements that students must meet in order to receive a certificate of completion from an approved program; providing an effective date.

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

Section 1. Subsection (1) of section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on HIV and AIDS.—

(1) As of July 1, 1991, the Department of Health shall require each person licensed or certified under ~~chapter 401,~~ chapter 467, part IV of chapter 468, or chapter 483, as a condition of biennial relicensure, to complete an educational course approved by the department on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current state ~~Florida~~ law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients. Each such licensee or certificateholder shall submit confirmation of having completed the ~~said~~ course, on a form provided by the department, when submitting fees or application for each biennial renewal.

Section 2. Subsection (7) of section 401.23, Florida Statutes, is amended to read:

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

(7) "Basic life support" means treatment of medical emergencies by a qualified person through the use of techniques ~~such as patient assessment, cardiopulmonary resuscitation (CPR), splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical antishock trousers, administration of a subcutaneous injection using a premeasured autoinjector of epinephrine to a person suffering an~~

~~anaphylactic reaction, and other techniques~~ described in the Emergency Medical Technician Basic Training Course Curriculum or the National EMS Education Standards of the United States Department of Transportation as approved by the department. The term ~~"basic life support"~~ also includes other techniques that ~~which~~ have been approved and are performed under conditions specified by rules of the department.

Section 3. Section 401.24, Florida Statutes, is amended to read:

401.24 Emergency medical services state plan.—The department is responsible, at a minimum, for the improvement and regulation of basic and advanced life support programs. The department shall develop, and ~~biennially~~ revise every 5 years, a comprehensive state plan for basic and advanced life support services, the emergency medical services grants program, trauma centers, the injury control program, and medical disaster preparedness. The state plan shall include, but need not be limited to:

(1) Emergency medical systems planning, including the prehospital and hospital phases of patient care, and injury control effort and unification of such services into a total delivery system to include air, water, and land services.

(2) Requirements for the operation, coordination, and ongoing development of emergency medical services, which includes: basic life support or advanced life support vehicles, equipment, and supplies; communications; personnel; training; public education; state trauma system; injury control; and other medical care components.

(3) The definition of areas of responsibility for regulating and planning the ongoing and developing delivery service requirements.

Section 4. Subsections (4) and (12) of section 401.27, Florida Statutes, are amended to read:

401.27 Personnel; standards and certification.—

(4) An applicant for certification or recertification as an emergency medical technician or paramedic must:

(a) Have completed an appropriate training course as follows:

1. For an emergency medical technician, an emergency medical technician training course equivalent to the most recent National EMS Education Standards ~~emergency medical technician basic training course~~ of the United States Department of Transportation as approved by the department;

2. For a paramedic, a paramedic training program equivalent to the most recent national standard curriculum or National EMS Education Standards ~~paramedic course~~ of the United States Department of Transportation as approved by the department;

(b) Certify under oath that he or she is not addicted to alcohol or any controlled substance;

(c) Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;

(d) Within 2 years ~~1 year~~ after course completion have passed an examination developed or required by the department;

(e)1. For an emergency medical technician, hold ~~either~~ a

current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by department rule;

2. For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by department rule;

(f) Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, which examination fee will be required for each examination administered to an applicant; and

(g) Submit a completed application to the department, which application documents compliance with paragraphs (a), (b), (c), (e), (f), (g), and, if applicable, (d). The application must be submitted so as to be received by the department at least 30 calendar days before the next regularly scheduled examination for which the applicant desires to be scheduled.

(12) An applicant for certification who is an out-of-state trained emergency medical technician or paramedic must provide proof of current emergency medical technician or paramedic certification or registration based upon successful completion of the United States Department of Transportation emergency medical technician or paramedic training curriculum <u>or the National EMS Education Standards as approved by the department</u> and hold a current certificate of successful course completion in cardiopulmonary resuscitation (CPR) or advanced cardiac life support for emergency medical technicians or paramedics,

respectively, to be eligible for the certification examination. The applicant must successfully complete the certification examination within 1 year after the date of the receipt of his or her application by the department. After 1 year, the applicant must submit a new application, meet all eligibility requirements, and submit all fees to reestablish eligibility to take the certification examination.

Section 5. Paragraph (a) of subsection (1) and subsection (5) of section 401.2701, Florida Statutes, are amended to read:

401.2701 Emergency medical services training programs.—

(1) Any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall:

(a) Submit a completed application on a form provided by the department, which must include:

1. Evidence that the institution is in compliance with all applicable requirements of the Department of Education.

2. Evidence of an affiliation agreement with a hospital that has an emergency department staffed by at least one physician and one registered nurse.

3. Evidence of an affiliation agreement with a current ~~Florida-licensed~~ emergency medical services provider that is licensed in this state. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program.

4. Documentation verifying faculty, including:

a. A medical director who is a licensed physician meeting the applicable requirements for emergency medical services

medical directors as outlined in this chapter and rules of the department. The medical director shall have the duty and responsibility of certifying that graduates have successfully completed all phases of the education program and are proficient in basic or advanced life support techniques, as applicable.

b. A program director responsible for the operation, organization, periodic review, administration, development, and approval of the program.

5. Documentation verifying that the curriculum:

a. Meets the ~~course guides and instructor's lesson plans in the~~ most recent Emergency Medical Technician-Basic National Standard Curricula or the National EMS Education Standards for emergency medical technician programs and paramedic ~~Emergency Medical Technician-Paramedic National Standard Curricula for paramedic~~ programs as approved by the department.

b. Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the department by rule.

~~c. Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of chapter 381.~~

6. Evidence of sufficient medical and educational equipment to meet emergency medical services training program needs.

(5) Each approved program must notify the department within 30 days after ~~of~~ any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical

examination evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum or the National EMS Education Standards as approved by the department. Each approved program must issue a certificate of completion to program graduates within 14 days after ~~of~~ completion.

Section 6. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 363 Physician Assistants
SPONSOR(S): Kreegel
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The bill changes the compositions of the Board of Medicine and the Board of Osteopathic Medicine within the Department of Health (DOH) by substituting one of the non-physician members with a physician assistant (PA) who is authorized to prescribe certain drugs and worked in the state for at least 4 years. The bill stipulates that the change to the composition of the boards will only occur as vacancies occur.

The bill deletes the requirement that PAs obtain an additional license and pay the associated licensure fees for a certificate allowing them to prescribe certain drugs. The bill does not alter any current authority granted to PAs to prescribe. DOH will continue to issue prescriber numbers to PAs.

The bill will have a significant negative fiscal impact to the Medical Quality Assurance Trust Fund within the Department of Health and an insignificant negative fiscal impact to the General Revenue Fund (See Fiscal Comments).

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.[1] Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Physician Assistants

Physician Assistant (PA) regulations are located in the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs).[2] Specifically, sections 458.347(7), and 459.022(7), F.S., govern the licensure of PAs in Florida. Currently there are a total of 5,108 in-state active licensed PAs in Florida, of which 4,214 are authorized to prescribe medicinal drugs.[3] Last year, 465 PAs submitted initial applications for a prescribing license.[4]

To become licensed as a PA, individuals must submit an application, remit a $100 application fee, and remit a $200 initial licensure fee.[5] The cost to renew a PA license is $275 biennially. In addition to the standard PA license, PAs who which to prescribe drugs must obtain additional certification. There is an initial application fee of $200 and an initial certification fee of $200 that is required to become certified as a prescribing PA.[6] The cost to renew a prescribing certification is $150 biennially.[7] Additionally, PAs seeking prescribing authority are required to complete an approved 3-hour course in prescriptive practice that covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs.[8] Prescribing PAs are required to keep on file a written agreement with their supervising physician that outlines which medicinal drugs the physician assistant is authorized to prescribe.[9] Furthermore, PAs may not prescribe any drug that is listed on the prohibited formulary and may only prescribe drugs that are used in the supervisory physician's practice.[10]

Physician assistants may only practice under the supervision of a MD or DO with whom they have a clinical relationship. A supervising physician may only delegate tasks and procedures to the physician

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[1] S. 456.001, F.S.
[2] Chs. 458 and 459, F.S.
[3] Email on file with the Health & Human Services Quality Committee Subcommittee from the Department of Health staff dated November 10, 2011.
[4] Department of Health, Bill Analysis, Economic Statement and Fiscal Note of HB 363 (dated November 15, 2011).
[5] 64B8-30.019 and 64B15-6.013, F.A.C
[6] *Ibid.*
[7] *Ibid.*
[8] Ss. 458.347 and 459.022, F.S; 64B8-30.003 and 64B15-6.003, F.A.C
[9] Ss. 458.347 and 459.022, F.S.; 64B8-30.007 and 64B15-6.0038, F.A.C.
[10] *Ibid.*

assistant that are within the supervising physician's scope of practice.[11] All tasks and procedures performed by the PA must be documented in the appropriate medical record. It is the responsibility of the supervising doctor to ensure that the PA is knowledgeable and skilled in performing the tasks and procedures assigned. 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.[12]

PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Florida Board of Medicine for PAs licensed under Chapter 458, F.S., or the Florida Board of Osteopathic Medicine for PAs licensed under Chapter 459, F.S.

Council on Physician Assistants

The Council created in 1995 to recommend the licensure requirements (including educational and training requirements) for PAs, establish a list of formulary drugs that a PA may not prescribe, and develop rules for the use of PAs by physicians to ensure that the continuity of supervision is maintained in each practice setting throughout the state.[13] The Council does not discipline PAs. Disciplinary action is the responsibility of either the Board of Medicine or the Board of Osteopathic Medicine. The Council is composed of five members: [14]

- Three MDs, one of which must supervise PAs and all are appointed by the chair of the Board of Medicine and are members of the board;
- A licensed DO who is appointed by the chair of the Board of Osteopathic Medicine and a member of the board; and
- A licensed PA who is appointed by the State Surgeon General.

Board of Medicine and Board of Osteopathic Medicine

The Board of Medicine is composed of fifteen members as follows:[15]

- Twelve licensed physicians;
- Two Florida residents who are not licensed as health care practitioners; and
- A licensed risk manager.

One of the fifteen board members must be over the age of sixty. The twelve MDs must be in good standing with the state, engaged in the practice or teaching of medicine for at least four years immediately preceding their appointment. Three of the twelve MDs must be:[16]

- A member of the faculty at a medical school within the state;
- A member must be in private practice and a full-time staff member at a statutory teaching hospital[17]; or
- A member must be a graduate of a foreign medical school.

The Board of Osteopathic Medicine is composed of seven members as follows:[18]

- Five members of the board must be licensed DOs in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to their appointment;
- Two members must be citizens of the state who are not, and have never been, licensed health care practitioners; and

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[11] Rule 64B8-30.012(1), F.A.C., and Rule 64B15-6.010(1), F.A.C.
[12] S. 458.347(3), F.S., and s. 459.022(3), F.S.
[13] S. 458.347(9), F.S., and s. 459.02 2(9), F.S
[14] *Ibid.*
[15] S. 458.307(1), F.S.
[16] S. 458.307(2), F.S.
[17] Any Florida hospital officially affiliated with an accredited Florida medical school which exhibits activity in the area of graduate medical education as reflected by at least seven different graduate medical education programs accredited by the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association. The hospital must also have 100 or more full-time equivalent resident physicians. The Agency for Health Care Administration determines which hospitals meet this definition.
[18] S. 459.004, F.S.

- At least one of the seven members must be 60 years of age or older.

All of the board members are appointed by the Governor and confirmed by the Senate. Members of the boards are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, and relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

Probable Cause Panels

Sections 458.331 and 459.015, F.S., provide grounds for disciplinary action to the Board of Medicine and Board of Osteopathic Medicine. Additionally, these sections stipulate that a probable cause panel must include one member who is a licensed PA when the board is convened to consider an alleged disciplinary action against a PA.[19] The PA member is appointed by the Council and may only hear cases before the probable cause panel that involve PAs. However, if the appointed PA member is not present when the probable cause panel convenes, the panel may still consider and vote on the disciplinary case.

In 2011, there were 417 legally sufficient complaints against licensed physician assistants that were reviewed by the probable cause panel and 102 of those complaints were reviewed by the full board to determine disciplinary action.[20]

Effects of Proposed Changes

The bill changes the composition of the Board of Medicine and the Board of Osteopathic Medicine by substituting one of the non-physician members with a PA who is authorized to prescribe certain medicinal drugs and has worked in the state for at least 4 years. The bill stipulates that the change to the composition of the boards will only occur as vacancies occur. Currently, the appointment terms of two of the three non-licensed health care practitioners on the Board of Medicine expire on October 31, 2013 and the third expires on October 31, 2014.[21] Both of the non-licensed health care practitioner member slots on the Board of Osteopathic Medicine are vacant.[22]

In addition, the bill removes the requirements that a PA obtain an additional license and pay the associated fees for a certificate authorizing them to prescribe. The bill does not alter any current authority granted to PAs to prescribe. PAs will continue to be issued a prescriber number granting them authority to prescribe certain drugs. DOH will continue to process requests for a prescriber number and determine if the PA qualifies for the prescribing privilege, but will not be authorized to collect a fee to cover any associated costs. The boards will have to modify administrative rules and the licensure database will have to be modified to delete the license to prescribe. Section 216.0236(1), F.S., provides that it is the intent of the Legislature that all costs of providing a regulatory service or regulating a profession should be borne solely by those who receive the service or who are subject to regulation.

B. SECTION DIRECTORY:

Section 1. Amends s. 458.307, F.S., relating to the Board of Medicine.
Section 2. Amends s. 458.347, F.S., relating to Physician Assistants.
Section 3. Amends s. 459.004, F.S., relating to Board of Osteopathic Medicine.
Section 4. Amends s. 459.022, F.S., relating to Physician Assistants.
Section 5. Provides that changes to the board membership are implemented as vacancies occur.
Section 6. Provides an effective date of July 1, 2012.

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[19] Ss. 458.331(10) and 459.015(10), F.S.
[20] Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 Annual Report, *available at*: http://www.doh.state.fl.us/mqa/reports.htm (last viewed November 10, 2011) and email correspondence with Department of Health staff on file with the Health & Human Services Quality Committee (dated November 15, 2011).
[21] Department of Health, Bill Analysis, Economic Statement and Fiscal Note of HB 363 (dated November 15, 2011).
[22] *Ibid.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Qualified physician assistants can obtain a prescriber number without having to pay a $200 application fee, $200 initial certification fee or $150 renewal fee to become a prescribing PA.

D. FISCAL COMMENTS:

The bill will decrease revenue to the Medical Quality Assurance Trust Fund within the DOH by approximately $170,936 in FY 2012-2013 and $755,366 in FY 2013-2014. According to DOH, there will be a reduction of the General Revenue Fund surcharge of: $14,864 in FY 2012-2013 and $65,684 in FY 2013-2014. Based on FY 2010-2011 data, there were 465 applications and 464 initial certifications issued to PAs for prescribing authority. For the purposes of this analysis, it is assumed that the same number will apply in upcoming fiscal years 2012-2013 and 2013-2014. Each new applicant will be charged $200 for the application and $200 for the initial certification.

Currently, there are 4,214 active and 21 inactive licensed PAs with prescribing authority. For the purposes of this analysis, it is assumed that all active and inactive licensees will renew January 31, 2014. The renewal fee for a prescribing certificate is $150.

DOH will continue to process requests for a prescriber number and determine if the PA qualifies for the prescribing privilege, but will not be authorized to collect a fee to cover any associated costs. Section 216.0236(1), F.S., provides that it is the intent of the Legislature that all costs of providing a regulatory service or regulating a profession should be borne solely by those who receive the service or who are subject to regulation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to physician assistants; amending ss. 458.307 and 459.004, F.S.; revising the composition of the membership on the Board of Medicine and the Board of Osteopathic Medicine; providing for the appointment of new members as vacancies occur and allow; amending ss. 458.347 and 459.022, F.S.; deleting the requirement that the Department of Health issue a license to a physician assistant to prescribe medicinal drugs and requiring only a prescription number; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (2) of section 458.307, Florida Statutes, is amended to read:

458.307 Board of Medicine.—

(2) Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment. One of the physicians must be on the full-time faculty of a medical school in this state, and one of the physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in s. 408.07. At least one of the physicians must be a graduate of a foreign medical school. <u>One member must be a physician</u>

assistant licensed under this chapter with prescribing authority who has worked in the state for at least 4 years. The remaining two ~~three~~ members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a health care risk manager licensed under s. 395.10974. At least one member of the board must be 60 years of age or older.

Section 2. Paragraphs (e) and (f) of subsection (4) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a

supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department, before commencing to prescribe or dispense, evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

5. The department shall issue ~~a license and~~ a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

6. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the

prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

7. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

8. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. The council shall establish a formulary of medicinal drugs that a fully licensed physician assistant <u>having prescribing authority</u>~~, licensed~~ under this section or s. 459.022~~,~~ may not prescribe. The formulary must include controlled substances as defined in chapter 893, general anesthetics, and radiographic contrast materials.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has

the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant having prescribing authority~~, licensed~~ under this section or s. 459.022~~,~~ and to each pharmacy licensed by the state. ~~The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).~~

Section 3. Subsection (2) of section 459.004, Florida Statutes, is amended to read:

459.004 Board of Osteopathic Medicine.—

(2) Five members of the board must be licensed osteopathic physicians in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to their appointment. One member must be a physician assistant licensed under this chapter with prescribing authority who has worked in the state for at least 4 years. The remaining member ~~two members~~ must be a citizen ~~citizens~~ of the state who is ~~are~~ not, and has ~~have~~ never been, a licensed health care practitioner ~~practitioners~~. At least one member of the board must be 60 years of age or older.

Section 4. Paragraph (e) of subsection (4) of section

459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervisory physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department, before commencing to prescribe or dispense, evidence that she or he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges

involved in prescribing medicinal drugs, or evidence that she or he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

5. The department shall issue ~~a license and~~ a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

6. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

7. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

8. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

Section 5. The amendment of sections 458.307 and 459.004, Florida Statutes, by this act to change the composition of the membership on the Board of Medicine and the Board of Osteopathic Medicine shall be implemented as vacancies on those boards occur and allow.

Section 6. This act shall take effect July 1, 2012.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative Kreegel offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 458.307, Florida Statutes, is amended to read:

458.307 Board of Medicine.—

(2) Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment. One of the physicians must be on the full-time faculty of a medical school in this state, and one of the physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in s. 408.07. At least one of the physicians must be a graduate of a foreign medical school. One member must be a physician

assistant licensed under this chapter with prescribing authority who has worked in the state for at least 4 years. The remaining two ~~three~~ members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a health care risk manager licensed under s. 395.10974. At least one member of the board must be 60 years of age or older.

Section 3. Paragraphs (e) and (f) of subsection (4) and paragraph (a) and (c) of subsection (7) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician

assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department at the time of initial application, ~~before commencing to prescribe or dispense~~, evidence that he or she has completed a ~~continuing medical education~~ course in pharmacotherapeutics, to include the initiation, selection, and modification of selected medications, and the limitations, responsibilities, and privileges involved in prescribing medicinal drugs. The course must have been ~~of at least 3 classroom hours in prescriptive practice, conducted by an accredited~~ conducted by a program accredited by the Commission on Accreditation of Allied Health Programs or its successor organization. The department shall issue a prescriber number if the evidence submitted meets the requirements. The physician assistant must receive a prescriber number prior to commencing to prescribe or dispense.~~approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.~~

4. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

5. The department shall issue ~~a license and~~ a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

6. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

7. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

8. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. The council shall establish a formulary of medicinal drugs that a fully licensed physician assistant <u>having</u>

prescribing authority~~, licensed~~ under this section or s. 459.022, may not prescribe. The formulary must include controlled substances as defined in chapter 893, general anesthetics, and radiographic contrast materials.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant having prescribing authority~~, licensed~~ under this section or s. 459.022, and to each pharmacy licensed by the state. ~~The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).~~

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall

issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

e. A copy of course transcripts and a copy of the course description from a physician assistant training program describing a pharmacotherapy course pursuant to section(4)(3)3., if the applicant wishes to apply for a prescriber number. These

documents shall meet the evidence requirements for prescribing authority.

(c) The license must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. A sworn statement of no felony convictions in the previous 2 years.

A licensed physician assistant without prescribing authority may request a prescribing number upon renewal by submitting evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, covering the limitations, responsibilities and privileges involved in prescribing medicinal drugs. The course must be conducted by an accredited program approved by the boards. The physician assistant must receive a prescriber number prior to commencing to prescribe or dispense.

(d) Each licensed physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

Section 4. Subsection (2) of section 459.004, Florida Statutes, is amended to read:

459.004 Board of Osteopathic Medicine.—

(2) Five members of the board must be licensed osteopathic physicians in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to

their appointment. One member must be a physician assistant licensed under this chapter with prescribing authority who has worked in the state for at least 4 years. The remaining ~~two~~ members~~s~~ must be a citizen ~~citizens~~ of the state who ~~are~~ is not, and ~~have~~ has never been, a licensed health care practitioner ~~practitioners~~. At least one member of the board must be 60 years of age or older.

Section 5. Paragraph (e) of subsection (4) and paragraphs (a) and (b) of subsection (7) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician

assistant. Authority to dispense may be delegated only by a supervisory physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department at the time of initial application, ~~before commencing to prescribe or dispense~~, evidence that he or she has completed a ~~continuing medical education~~ course in pharmacotherapeutics, to include the initiation, selection, and modification of selected medications, and the limitations, responsibilities, and privileges involved in prescribing medicinal drugs. The course must have been ~~of at least 3 classroom hours in prescriptive practice, conducted by an accredited~~ conducted by a program accredited by the Commission on Accreditation of Allied Health Programs or its successor organization. The department shall issue a prescriber number if the evidence submitted meets the requirements. The physician assistant must receive a prescriber number prior to commencing to prescribe or dispense.~~approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.~~

4. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

5. The department shall issue ~~a license and~~ a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

6. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

7. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

8. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

e. A copy of course transcripts and a copy of the course description from a physician assistant training program describing a pharmacotherapy course pursuant to section(4)(3)3.,

if the applicant wishes to apply for a prescriber number. These documents shall meet the evidence requirements for prescribing authority.

(b) The license must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. A sworn statement of no felony convictions in the previous 2 years.

A licensed physician assistant without prescribing authority may request a prescribing number upon renewal by submitting evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, covering the limitations, responsibilities and privileges involved in prescribing medicinal drugs. The course must be conducted by an accredited program approved by the boards. The physician assistant must receive a prescriber number prior to commencing to prescribe or dispense.

Section 6. The amendment of sections 458.307 and 459.004, Florida Statutes, by this act to change the composition of the membership on the Board of Medicine and the Board of Osteopathic Medicine shall be implemented as vacancies on those boards occur and allow.

Section 7. This act take effect July 1, 2012.

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

Amendment No.

Remove lines 1-12 and insert:

An act relating to physician assistants; amending ss. 458.307 and 459.004, F.S.; revising the composition of the membership on the Board of Medicine and the Board of Osteopathic Medicine; providing for the appointment of new members as vacancies occur and allow; ss. 458.347 and 459.022, F.S.; deleting the requirement that the Department of Health issue a license to physician assistant to prescribe medicinal drugs and requiring only a prescription number; provides that provides that a physician assistant must submit certain evidence at the time of initial licensure if he or she has completed a course in pharmacotherapeutics from an accredited school; provides that if a physician assistant wishes to apply for a prescriber number he or she must submit transcripts and copy of course description along with their application; provides that a physician assistant who wishes to apply for a prescriber number must submit evidence at biennial renewal if he or she has completed at least 3 classroom hours in an approved program that covers prescribing limitations, responsibilities, and privileges involved in prescribing; conforming provisions to changes made by the act; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 413 Chiropractic Medicine
SPONSOR(S): Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee		Holt	Calamas
2) Rulemaking & Regulation Subcommittee			
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill makes the voluntary registration of a chiropractic assistant mandatory effective April 1, 2012. A "registered chiropractic assistant" is a person who voluntarily registers with the Board of Chiropractic Medicine to perform chiropractic services under the direct supervision of either a chiropractic physician or certified chiropractic physician's assistant. Section 11.62, Florida Statutes, the Sunrise Act, provides legislative intent regarding the regulation of new professions and occupations and requires proponents of regulation to submit information regarding the regulation of a new profession. However, a sunrise questionnaire was not submitted by the proponents.

The bill makes several changes to chapter 640, F.S., the chiropractic medicine practice act. The bill revises the requirements for obtaining a chiropractic medicine faculty certificate, adds language regarding the denial of continuing education courses, requires the successful passage of all parts of the national examination, addresses the retention of patient funds and property, provides exceptions to the types of entities that may hire independent contractors to provide chiropractic services and states who may exercise control over a chiropractor's practice.

The bill will have a significant negative fiscal impact to the Medical Quality Assurance Trust Fund within the Department of Health and requires 1 full-time equivalent position (See Fiscal Analysis).

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Quality Assurance

The Florida Department of Health (DOH), Division of Medical Quality Assurance (MQA) regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils. Boards are responsible for approving or denying applications for licensure and are involved in disciplinary hearings. The range of disciplinary actions taken by boards includes citations, suspensions, reprimands, probations, and revocations.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.[1] Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Chiropractic Physicians

In Florida, chiropractic physicians (chiropractors) are governed by chapter 460, F.S., the chiropractic medicine act. The practice of chiropractic medicine is defined to mean a non-combative principle and practice consisting of the science of the adjustment, manipulation, and treatment of the human body.[2] A chiropractor is authorized to adjust, manipulate or treat the human body by manual, mechanical, electrical, or natural methods.[3] Chiropractors are prohibited from prescribing or administering any legend drugs with limited exceptions.[4] According to the American Chiropractic Association, there are more than 60,000 active chiropractic licenses in the United States and all 50 states officially recognize chiropractic medicine as a health care profession.[5] Currently, there are 4,667 individuals who hold an active in-state license to practice chiropractic medicine in Florida.[6]

Licensure requirements for chiropractic physicians include: graduation from a chiropractic college that is accredited by the Council on Chiropractic Education; passage of the National Board of Chiropractic Examiners certification examination; and submission of an application and fees to the department.[7] A Chiropractor may be disciplined for misconduct and violating any provision contained within the chiropractic medicine practice act.[8] A chiropractor may be disciplined for failing to preserve the identity of funds held in trust and property of a patient in any amount.[9] Currently, statute does not provide a cap on the amount of funds that a chiropractor may hold in trust as an advance for costs and expenses for rendered services.

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[1] S. 456.001, F.S.
[2] S. 460.403(9)(a), F.S.
[3] S. 460.403(9)(c), F.S.
[4] *Id.* Chiropractors may order, store, and administer, for emergency purposes only, prescription medical oxygen, any solution consisting of 25 percent ethylchloride and 75 percent dichlorodifluoromethane, and any solution consisting of 15 percent dichlorodifluormethane and 85 percent trichloromonofluoromethane.
[5] American Chiropractic Association, General Information about Chiropractic Care, *available at*: www.acatoday.org/pdf/Gen_Chiro_Info.pdf (last viewed November 30, 2011).
[6] Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 MQA Annual Report, *available at*: http://doh.state.fl.us/mqa/reports.htm (last viewed October 27, 2011).
[7] S. 460.406, F.S.
[8] S. 460.412, 460.411, and 460.413, F.S.
[9] S. 460.13(1)(y), F.S.

National Examination

The National Examination is composed of the four mandatory and two optional parts and: [10]

- *Part I* tests individuals on subjects in each of six basic science areas: general anatomy, spinal anatomy, physiology, chemistry, pathology, and microbiology.
- *Part II* tests individuals on each of six clinical science areas: general diagnosis, neuromusculoskeletal diagnosis, diagnostic imaging, and principles of chiropractic, chiropractic practice, and associated clinical sciences.
- *Part III* tests individuals on nine clinical areas: case history, physical examination, neuromusculoskeletal examination, diagnostic imaging, clinical laboratory and special studies, diagnosis or clinical impression, chiropractic techniques, supportive interventions, and case management.
- *Part IV* tests individuals in three major areas: x-ray interpretation and diagnosis; chiropractic technique; and case management.
- *Physiotherapy* (optional) tests individuals on passive[11] and active[12] adjunctive procedures.
- *Acupuncture* (optional) tests individuals on the history and philosophy of acupuncture in a chiropractic setting, organs, Qi (life energy) and fluid, channels and pathways, acupoints, acupuncture techniques, basic treatment tenets and protocols, and safety and hygiene.

Chiropractic Practice Ownership

Generally, only a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more chiropractic physicians, or by a chiropractic physician and the spouse, parent, child, or sibling of that chiropractic physician, may employ a chiropractic physician or hire a chiropractic physician as an independent contractor to provide chiropractic services.[13] However, exceptions are provided in statute for medical doctors, doctors of osteopathic medicine, hospitals, and state-licensed insurers.[14] Current law also prohibits certain persons from employing or entering into a contract with a chiropractic physician and thereby exercising control over patient records, decisions relating to office personnel and hours of practice, and policies relating to pricing, credit, refunds, warranties, and advertising. Persons who are not chiropractic physicians and entities not wholly owned by chiropractic physicians or chiropractic physicians and the spouse, parent, child, or sibling of a chiropractic physician, are so prohibited. No exceptions to this prohibition are contained in current law.[15]

Board of Chiropractic Medicine

Chiropractors are regulated by the Florida Board of Chiropractic Medicine (board). The board is composed of seven members:[16]

- Five are licensed instate chiropractors engaged in the practice for at least 4 years; and
- Two Florida residents who are not licensed as health care practitioners

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[10] National Board of Chiropractic Examiners, Written Examinations: Overview, *available at*: http://www.nbce.org/written/overview.html (last viewed December 2, 2011).
[11] Passive adjunctive procedures include thermotherapy, electrotherapy, mechanotherapy and phototherapy.
[12] Active adjunctive procedures include functional assessment, exercise physiology, endurance training, muscle rehabilitation, neuromuscular rehabilitation, and disorder-specific rehabilitation
[13] S. 460.4167(1), F.S.
[14] *Id.*
[15] S. 460.4167 (4), F.S.
[16] S. 460.404, F.S.

All board members are appointed by the Governor and confirmed by the Senate. Members of the board are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

The board is tasked with approving continuing education courses.[17] The board is required to approve continuing education courses that are sponsored by chiropractic colleges whose graduates are eligible to take the national examination and the courses must build upon the basic courses required for the practice of chiropractic medicine.[18] The board is permitted to approve courses in adjunctive modalities. Furthermore, the board is directed to require licensees to periodically demonstrate their professional competence as a condition of license renewal by completing at least 40 classroom hours of continuing education every biennium.[19]

Chiropractic Faculty Certificates

Section 460.4062, F.S., provides for the certification of chiropractic medical faculty at publicly funded state universities or colleges. A chiropractic medicine faculty certificate authorizes the certificate holder to practice chiropractic medicine only in conjunction with his or her full-time faculty position at a university or college and its affiliated clinics that are registered with the board as sites at which holders of chiropractic medicine faculty certificates will be practicing.[20]

DOH is authorized to issue a chiropractic medicine faculty certificate to an individual without requiring them to pass the state examination if they demonstrate to the board: [21]

- Possession of a valid license to practice in another state;
- Graduation from an accredited school or college of chiropractic medicine accredited by the Council on Chiropractic Education; and
- Acceptance of a full-time faculty appointment to teach chiropractic medicine at a publicly-funded state university or college that is accredited by the Council on Chiropractic Education, which includes a certificate from the dean of the appointing college acknowledging the appointment.

In addition, the individual must be at least 21 years of age, be of good moral character and not be the subject of any disciplinary action. As of November 2011, there are 19 schools accredited by the Council on Chiropractic Education Commission on Accreditation in the United States; two are located in Florida: Palmer College of Chiropractic (Port Orange) and National University of Health Sciences (Pinellas Park).[22] Currently, there are 8 individuals who possess a chiropractic faculty certificate.[23]

Chiropractic Physician Assistants

Chapter 460, F.S., provides for two types of chiropractic assistants: certified and registered.[24] Both are required to work under a licensed chiropractor who has been certified by the board as a supervising chiropractor.[25] The supervising chiropractor is liable for any act or omission of any certified chiropractic physician's assistant under their supervision or control.[26]

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[17] S. 460.408, F.S.
[18] S. 460.408(1), F.S.
[19] S.460.408(1), F.S. and 64B2-13.004, F.A.C.
[20] S. 460.4062(2), F.S.
[21] S. 460.4062(1), F.S.
[22] The Council on Chiropractic Education, Accredited Doctor of Chiropractic Programs/Institutions, *available at:* http://www.cce-usa.org/Accredited_Doctor_Chiro.html (last viewed December 1, 2011).
[23] *Supra*, note 6, page 2.
[24] Ss. 460.4165 and 460.4166, F.S.
[25] 64B2-18.005, F.A.C. Certifications are valid for 2 years and must be renewed biennially.
[26] S. 460.4165(11), F.S. and 64B2-18.006, F.A.C.

A "certified chiropractic assistant" is a person who is a graduate of an approved program to perform chiropractic services under the indirect or direct supervision[27] of an approved supervising chiropractic physician or a group of physicians.[28] Training programs for certified chiropractic physician assistants are approved and issued certificates by the board. The curriculum must consist of at least 200 didactic hours and cover a period of 24 months.[29] A person who desires to be licensed as a certified chiropractic physician's assistant is required to submit an application for licensure, remit a fee and meet eligibility criteria. A person who is not certified as a chiropractic physician assistant and represents themselves as such, is guilty of a third degree felony.[30] Currently, there are 174 individuals who hold active in-state certificates as chiropractic assistants.[31]

A "registered chiropractic assistant" is a person who voluntarily registers[32] with the board to perform chiropractic services under the direct supervision[33] of either a chiropractic physician or certified chiropractic physician's assistant.[34] There are no training, educational requirements, or eligibility criteria that must be met to become a registered chiropractic assistant. Section 460.4166, F.S., states that if a person wishes to register as a chiropractic assistant they must adhere to ethical and legal standards of the professional practice, recognize and respond to emergencies, and demonstrate professional characteristics. A registered chiropractic assistant may perform the following duties:[35]

- Prepare patients for the chiropractic physician's care;
- Take vital signs;
- Observe and report the patient's signs or symptoms;
- Administer basic first aid;
- Assist with patient examinations or treatments except for manipulations or adjustments;
- Operate office equipment;
- Collect urine specimens as directed;
- Administer nutritional supplements as directed;
- Perform office procedures as directed.

Currently, there are 2,430 individuals who hold active registrations as chiropractic assistants.[36]

Professional Regulation and the Florida Sunrise Act

There are three different types or levels of regulation:[37]

Licensure is the most restrictive form of state regulation. Under licensure laws, it is illegal for a person to practice a profession without first meeting all of the standards imposed by the state;

Certification grants title protection to those who meet training and other standards. Those who do not meet certification standards cannot use the title, but can still perform the services; and

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[27] Indirect supervision requires easy availability or physical presence where the supervising chiropractor can be in a location within 30 minutes and must be available when needed for consultation and advice either in person or by electronic means. A chiropractic physician assistant working in a facility that holds a health care clinic license may only render services under direct supervision. *See* Ss. 460.403(8) and 460.4165(14), F.S. and 64B18.001, F.A.C

[28] .S. 460.403(3), F.S.

[29] S. 460.414(5), F.S.

[30] Felony of the third degree are punishable by a term of imprisonment not to exceed 5 years or a fine not to exceed $5,000 (ss. 775.082 and 775.083, F.S.).

[31] *Supra,* note 6, page 2.

[32] S. 460.4166(5), F.S. The fee to voluntarily register is $25.

[33] Direct supervision means responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by a registered chiropractic assistant and requires the Chiropractor to be physically located on the premises at all times while patients are receiving patient care management or treatment. See 64B2-18.0075, F.A.C.

[34] S. 460.403(10), F.S.

[35] S. 460.4166(2), F.S.

[36] *Supra,* note 6, page 2.

[37] Schmitt, K. & Shimberg, B. (1996). Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask. *Council on Licensure, Enforcement, and Regulation.*

Registration is the least restrictive form of regulation and usually only requires individuals to file their name, address, and qualifications with a government agency before practicing the occupation.

Section 456.003, Florida Statutes, specifies that health care professions be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

- Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation;
- The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation; and
- Less restrictive means of regulation are not available.

Section 11.62, Florida Statutes, the Sunrise Act, provides legislative intent regarding the regulation of new professions and occupations:[38]

- No profession or occupation is subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and
- No profession or occupation is regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

In determining whether to regulate a profession or occupation, section 11.62(3), Florida Statutes, requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act requires proponents of regulation to submit information documenting the need for the proposed regulation. However, a sunrise questionnaire was not submitted by the proponents.

Effect of Proposed Changes

Chiropractic Medicine Faculty Certificate

The bill amends the eligibility requirements for the chiropractic medicine faculty certificate, such that DOH may issue a certificate to a individual who has accepted a part-time faculty appointment or conducts research at a publicly funded state university, college, or a chiropractic college that is accredited by the Council on Chiropractic Education. This will enable individuals who have not passed

[38] S. 11.62(2), F.S.

the chiropractic examination required for licensure to treat patients in conjunction with their duties as faculty members or researchers. Currently, only individuals accepting full-time faculty appointment are eligible.

Patient Funds and Property

A chiropractor may be disciplined for failing to preserve the identity of any funds or property of a patient and failing to hold any money or property in entrusted in trust.[39] Currently, statute does not provide a cap on the amount of funds, value of money or property. The bill caps the value of funds and property of a patient must be over $501 and provides that the maximum amount that may be held in trust is $1,500.

National Examination

The bill adds to statute that individuals seeking licensure as a chiropractor must successfully pass part IV of the national examination. The National Board of Chiropractic Examiners requires individuals to a take and successfully passes parts I-IV of the national exam. However, state law requires individuals to only successfully complete parts I-III of the national examination. This change aligns state law with the requirements of the National Board of Chiropractic Examiners.

Chiropractor Practice Ownership

The bill provides exceptions to the limitation on employment of chiropractors. First, the bill provides that a trust whose trustees are licensed chiropractors and the spouse, parent, child, or sibling of a chiropractic physician may employ a chiropractor as an independent contractor to provide chiropractic services. Secondly, the bill provides that a limited liability company, limited partnership, professional association or entity, health maintenance organization, and prepaid health clinic are entities that may also employ a chiropractor as an independent contractor. Third, the bill provides that a surviving spouse of a chiropractor may also employ a chiropractor as an independent contractor.

The bill specifies that the surviving spouse or surviving spouse, parent, child, or sibling of the chiropractic physician may hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the deceased chiropractor's ownership interests as long as the survivors remain the sole proprietors of the practice. The bill states that any entities that are able to hire a chiropractor as an independent contractor may exercise control over the patient records of the employed chiropractor, the policies and decisions relating to pricing, credit, refunds, warranties, and advertising, and the decisions relating to office personnel and hour of operation. The bill corrects cross references to statutory provisions that provide the punishment for a third degree felony.

According to DOH, the board office has been unable to determine if there have ever been any incidences of surviving family members who have been prosecuted by the state for retaining ownership after the death of a practitioners, but there have been inquires concerning the need for disposing of the practice of a deceased chiropractor by his or her estate or close surviving relatives.[40] The advice has always been for the surviving relatives to seek legal guidance in this matter.[41] In practice, these situations are typically resolved by the quick sale of the practice by the estate of the deceased to another appropriately licensed practitioner.

Continuing Education

The bill prohibits the board from approving continuing education courses that include instruction on in the use, application, prescription, recommendation, or administration of a specific company's brand of products or services. Consequently, more continuing education courses may be denied by the board. The bill gives the board more discretion in approving continuing education courses sponsored by

[39] S. 460.13(1)(y), F.S.
[40] Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 413, dated November 29, 2011.
[41] *Id.*

chiropractic colleges whose graduates are eligible to take the national examination by removing the mandate to approve all courses that meet the qualifications.

According to DOH, most if not all of the continuing education course offered by chiropractic colleges meet current statutory requirements, thus are automatically approved.[42] Additionally, DOH states that it does not maintain any information on courses and does not review the content of the continuing education courses, this is a board function.[43] Currently, DOH has a contract with a vendor called "CE Broker" that deals with the continuing education providers. Thus, the individuals taking the course and continuing education providers are the only entities that actually view the materials.

Certified Chiropractic Assistants

The bill amends the education requirements for certified chiropractic assistants such that the curriculum of 200 hours does not have to occur in a 24-month period. According to DOH, currently there are two approved certified chiropractic assistant education programs which are modeled to meet statutory requirements. However, there have been proposals submitted to the board for approval that propose offering the same course material over a shorter timeframe.[44]

In addition, the bill changes the location in which a certified chiropractic assistant may provide services under indirect supervision. Currently, they may provide services at the address of record or place of practice. The bill limits the practice setting to the supervising chiropractor's address of record. According to DOH, this limitation will stop the practice of using certified chiropractic assistants to run chiropractic branch offices without the physical presence or direct supervision of a chiropractor.[45]

Registered Chiropractic Assistants

The bill eliminates the voluntary registered chiropractic assistant registration process under current law, effective July 1, 2011. The bill makes the registration of a chiropractic assistant mandatory effective April 1, 2012. The bill amends the duties of a registered chiropractic assistant by adding "therapy", allowing the operation of therapeutic equipment instead of office equipment. The bill requires individuals seeking registration as chiropractic assistants to submit applications by March 31, 2013, or 30 days after employment. The application must specify their place of employment, names of all supervising chiropractors. The application must be signed by the chiropractor that owns the practice. The effective date of the registration is April 1, 2013, or applies retroactively to the applicant's date of employment, whichever occurs later.

Within 30 days of a change in employment, the registered chiropractic assistant is required to notify and provide the board with the place of employment and names of supervising chiropractor (s). The notification must be signed by the chiropractor that owns the practice. The chiropractor is also required to notify the board within 30 days if a registered chiropractic assistant is no longer in their employment.

The bill specifies that if an individual does not perform any of the duties of a registered chiropractic assistant they are not eligible to register with the board. The bill provides the board authority to create application and renewal forms by rule. The bill reorganizes and restates current law on such topics such as the fees and registration renewal.

According to DOH, a requirement that the effective date of the registration be retroactive does not exist in ch. 460, F.S., or any other licensing statutes governed by ch. 456, F.S.[46] The requirement that an individual seek registration 30 days after employment creates a grace period that may conflict with unlicensed practice pursuant to s. 456.065, F.S., if the individual seeks registration on the 29th or 30th day. If an application for registration is disapproved, it is possible to prosecute an individual for unlicensed activity during that thirty day window. Finally, current law makes registration renewal a DOH

[42] Department of Health, Bill Analysis, Economic Statement and Fiscal Note for HB 413, dated November 29, 2011.
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] *Id.*

function, therefore the board will have to adopt rules related to renewal application. DOH also believes that the mandatory regulation of registered chiropractic assistants may enable chiropractic physicians to seek third-party reimbursements for therapeutic services or the administration of therapeutic agents provided by registered chiropractic assistants.[47]

B. SECTION DIRECTORY:

Section 1. Amends s. 460.4062, F.S., relating to chiropractic medicine faculty certificate.
Section 2. Amends s. 460.408, F.S., relating to continuing chiropractic education.
Section 3. Amends s. 460.406, F.S., relating to licensure by examination.
Section 4. Amends s. 460.413, F.S., relating to grounds for disciplinary action by the board or department.
Section 5. Amends s. 460.4165, F.S., relating to certified chiropractic physician's assistants.
Section 6. Amends s. 460.4166, F.S., relating to registered chiropractic assistants.
Section 7. Amends s. 460.4167, F.S., relating to proprietorship by persons other than licensed chiropractic physicians.
Section 8. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:
Based on inquiries from chiropractic professional associations, it is estimated that, on average, there is at least one registered chiropractic assistant for every chiropractic physician. For the purposes of this analysis, it is assumed that there will be one registered chiropractic assistant for every licensed chiropractic physician. In Fiscal Year 2010-2011, there were 4,667 in-state active chiropractic physicians and 2,430 in-state active registered chiropractic assistants. Also, there were 298 initial licenses issued in Fiscal Year 2010-2011 and it is projected that licensee pool will increase annually. Therefore, DOH estimates that 2,535 registered chiropractic assistants will register in the first year and 298 in the second year.[48]

1. Revenues:

Revenues are estimated based on 2,535 new registered chiropractic assistants' licensees in the first year and 298 in the second year. The registration fee is $25. The unlicensed activity fee of $5 will also be assessed upon initial licensure and renewal in accordance with Section 456.035(3), FS. The application fees collected will be subject to the 8% general revenue surcharge and deducted from the amounts collected.

Estimated Revenues	**1st Year**	**2nd Year**
Registration Fee	$63,375	$7,450
Unlicensed Activity Fee	$12,675	$1,490
8% Surcharge to GR	($6,084)	($715)
Total Estimated Revenues	$69,966	$8,225

2. Expenditures:

According to DOH, a full-time equivalent (FTE) position will be required to implement this bill. Salary was computed at base of the position plus 35% for benefits. The position is effective as of July 1, 2012.

As of June 30, 2011, the board office managed a licensure pool size of 8,753. Based on timekeeping, 3.38 FTEs managed the current board licensure pool. The board office can process initial applications, issue licenses, renew licenses and generally maintain a licensee pool at a rate of 2,590 per FTE (8,753 licensee pool/3.38 FTEs). The projected licensee pool size handled by the board office will increase by 2,535 licensees in the first year and 298 in the second year; therefore, 1 FTE is justified. A Regulatory Specialist II, no travel, is requested. DOH currently registers

[47] *Id.*
[48] *Id.*

registered chiropractic assistants on a voluntary basis; thus, systems are in place to accommodate the mandatory registration process. DOH currently contracts services for processing of initial and renewal applications and related fees with an outside vendor. The cost of the contracted service is based on a $7.69 per application rate.

Estimated Expenditures	1st Year	2nd Year
Salaries *1 - Regulatory Specialist II (RSII), PG17*	$37,700	$37,700
Expense *1 FTE Prof Exp Pkg, No Travel*	$10,203	$6,555
Contracted Services *Application Processing*	$19,494	$2,292
Human Resources Services *1 FTE*	$356	$356
Total Estimated Expenditures	$67,753	$46,903

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None identified.

2. Expenditures:

   None identified.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Everyone currently performing the duties of a registered chiropractic assistant will be required to submit an application for registration and remit a fee of $25 to the board. The mandatory regulation of registered chiropractic assistants may enable chiropractors to seek third-party reimbursement for therapeutic services or the administration of therapeutic agents.

D. FISCAL COMMENTS:

DOH states it will incur non-recurring costs for rulemaking and making changes to the COMPAS licensure system, which current budget authority is adequate to absorb. Furthermore, DOH may experience a recurring increase in workload associated with additional complaints and investigations due to non-compliance, it is anticipated that current resources are adequate to absorb.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides DOH sufficient rule making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Generally, when a new profession creates a regulatory scheme the legislation usually includes provisions that specify education or training standards, guidelines for review or approval of training

programs, examination requirements to test aptitude or knowledge of a profession, penalty and disciplinary guidelines. The bill is silent on these types of provisions.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to chiropractic medicine; amending s. 460.4062, F.S.; revising the requirements for obtaining a chiropractic medicine faculty certificate; amending s. 460.408, F.S.; authorizing the Board of Chiropractic Medicine to approve continuing education courses sponsored by chiropractic colleges under certain circumstances; prohibiting the board from approving certain courses in continuing chiropractic education; amending s. 460.406, F.S.; revising requirements for a person who desires to be licensed as a chiropractic physician; amending s. 460.413, F.S.; requiring that a chiropractic physician preserve the identity of funds or property of a patient in excess of a specified amount; limiting the amount that may be advanced to a chiropractic physician for certain costs and expenses; amending s. 460.4165, F.S.; providing that services rendered by a certified chiropractic physician's assistant under indirect supervision may occur only at the supervising chiropractic physician's address of record; deleting the length of time specified for the basic program of education and training for certified chiropractic physician's assistants; amending s. 460.4166, F.S.; authorizing a registered chiropractic assistant to operate therapeutic office equipment; requiring that a registered chiropractic assistant register with the board effective by a specified date and pay a fee for

registration under certain circumstances; requiring that a registered chiropractic assistant submit an initial application by a specified date, or within 30 days after becoming employed, whichever occurs later; requiring that an applicant specify the place of employment and the names of the supervising chiropractic physicians; requiring that the application be signed by a chiropractic physician who is an owner of the applicant's place of employment; providing an effective date of a registered chiropractic assistant's registration; authorizing certain chiropractic physicians or chiropractic physician's assistants to supervise a registered chiropractic assistant; requiring that a registered chiropractic assistant notify the board of his or her change of employment within a specified time; requiring that a specified chiropractic physician sign the registered chiropractic assistant's notification of change of employment; requiring that the registered chiropractic assistant's employer notify the board when the assistant is no longer employed by that employer; providing eligibility conditions for registering as a registered chiropractic assistant; requiring the biennial renewal of a registered chiropractic assistant's registration and payment of a renewal fee; requiring that the board adopt by rule the forms for certain statutorily required applications and notifications; authorizing the board

to accept or require electronically submitted applications, notifications, signatures, or attestations in lieu of paper applications and actual signatures; requiring the signature of certain forms and notices by specified owners and supervisors under certain conditions; authorizing the board to provide for electronic alternatives to signatures if an application is submitted electronically; amending s. 460.4167, F.S.; authorizing certain sole proprietorships, group practices, partnerships, corporations, limited liability companies, limited partnerships, professional associations, other entities, health care clinics licensed under part X of ch. 400, F.S., health maintenance organizations, or prepaid health clinics to employ a chiropractic physician or engage a chiropractic physician as an independent contractor to provide services authorized by ch. 460, F.S.; authorizing the spouse or adult children of a deceased chiropractic physician to hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the deceased chiropractic physician's ownership interests under certain conditions; authorizing an employer that employs a chiropractic physician to exercise control over the patient records of the employed chiropractic physician, the policies and decisions relating to pricing, credit, refunds, warranties, and advertising, and the decisions relating to office personnel and hours of practice;

deleting an obsolete provision; providing an effective date.

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

Section 1. Paragraph (e) of subsection (1) of section 460.4062, Florida Statutes, is amended to read:

460.4062 Chiropractic medicine faculty certificate.—

(1) The department may issue a chiropractic medicine faculty certificate without examination to an individual who remits a nonrefundable application fee, not to exceed $100 as determined by rule of the board, and who demonstrates to the board that he or she meets the following requirements:

(e)1. Performs research or has been offered and has accepted a full-time or part-time faculty appointment to teach in a program of chiropractic medicine at a publicly funded state university or college or at a college of chiropractic located in the state and accredited by the Council on Chiropractic Education; and

2. Provides a certification from the dean of the appointing college acknowledging the appointment.

Section 2. Subsection (1) of section 460.408, Florida Statutes, is amended to read:

460.408 Continuing chiropractic education.—

(1) The board shall require licensees to periodically demonstrate their professional competence as a condition of renewal of a license by completing up to 40 contact classroom hours of continuing education.

(a) Continuing education courses sponsored by chiropractic colleges whose graduates are eligible for examination under any provision of this chapter may ~~shall~~ be approved upon review by the board if all other requirements of board rules setting forth criteria for course approval are met.

(b) The board shall approve those courses that build upon the basic courses required for the practice of chiropractic medicine, and the board may also approve courses in adjunctive modalities. Courses that consist of instruction in the use, application, prescription, recommendation, or administration of a specific company's brand of products or services are not eligible for approval.

Section 3. Paragraph (e) of subsection (1) of section 460.406, Florida Statutes, is amended to read:

460.406 Licensure by examination.—

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

(e) Successfully completed the National Board of Chiropractic Examiners certification examination in parts I, II,

~~and~~ III, and IV with a score approved by the board.

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

Section 4. Paragraph (y) of subsection (1) of section 460.413, Florida Statutes, is amended to read:

460.413 Grounds for disciplinary action; action by board or department.—

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

(y) Failing to preserve identity of funds and property of a patient, the value of which is greater than $501. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment which may not exceed the value of $1,500, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician's fees, and a refusal to account for and deliver over such money and property upon demand shall be deemed a conversion. This is not to preclude the retention of money or other property upon which the chiropractic physician has a valid

lien for services or to preclude the payment of agreed fees from the proceeds of transactions for examinations or treatments. Controversies as to the amount of the fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive or extortionate, or the demand is fraudulent. All funds of patients paid to a chiropractic physician, other than advances for costs and expenses, shall be deposited into ~~in~~ one or more identifiable bank accounts maintained in the state in which the chiropractic physician's office is situated, and ~~no~~ funds belonging to the chiropractic physician may not ~~shall~~ be deposited therein except as follows:

1. Funds reasonably sufficient to pay bank charges may be deposited therein.

2. Funds belonging in part to a patient and in part presently or potentially to the physician must be deposited therein, but the portion belonging to the physician may be withdrawn when due unless the right of the physician to receive it is disputed by the patient, in which event the disputed portion may ~~shall~~ not be withdrawn until the dispute is finally resolved.

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the

patient is entitled to receive.

Section 5. Subsections (2) and (5) of section 460.4165, Florida Statutes, are amended to read:

460.4165 Certified chiropractic physician's assistants.—

(2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S ASSISTANT.—Notwithstanding any other provision of law, a certified chiropractic physician's assistant may perform chiropractic services in the specialty area or areas for which the certified chiropractic physician's assistant is trained or experienced when such services are rendered under the supervision of a licensed chiropractic physician or group of chiropractic physicians certified by the board. Any certified chiropractic physician's assistant certified under this section to perform services may perform those services only:

(a) In the office of the chiropractic physician to whom the certified chiropractic physician's assistant has been assigned, in which office such physician maintains her or his primary practice;

(b) Under indirect supervision if the indirect supervision occurs at the supervising chiropractic physician's address of record ~~or place of practice~~ required by s. 456.035, other than at a clinic licensed under part X of chapter 400, of the chiropractic physician to whom she or he is assigned as defined by rule of the board;

(c) In a hospital in which the chiropractic physician to whom she or he is assigned is a member of the staff; or

(d) On calls outside ~~of~~ the office of the chiropractic physician to whom she or he is assigned, on the direct order of

the chiropractic physician to whom she or he is assigned.

(5) PROGRAM APPROVAL.—The department shall issue certificates of approval for programs for the education and training of certified chiropractic physician's assistants which meet board standards. Any basic program curriculum certified by the board ~~shall cover a period of 24 months. The curriculum~~ must consist of a curriculum of at least 200 didactic classroom hours ~~during those 24 months~~.

(a) In developing criteria for program approval, the board shall give consideration to, and encourage, the use ~~utilization~~ of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.

(b) The board shall create groups of specialty classifications of training for certified chiropractic physician's assistants. These classifications must ~~shall~~ reflect the training and experience of the certified chiropractic physician's assistant. The certified chiropractic physician's assistant may receive training in one or more such classifications, which shall be shown on the certificate issued.

(c) The board shall adopt and publish standards to ensure that such programs operate in a manner that ~~which~~ does not endanger the health and welfare of the patients who receive services within the scope of the program. The board shall review the quality of the curricula, faculties, and facilities of such programs; issue certificates of approval; and take whatever other action is necessary to determine that the purposes of this section are being met.

Section 6. Subsections (2) and (3) of section 460.4166, Florida Statutes, are amended, and subsections (4), (5), and (6) are added to that section, to read:

460.4166 Registered chiropractic assistants.—

(2) DUTIES.—Under the direct supervision and responsibility of a licensed chiropractic physician or certified chiropractic physician's assistant, a registered chiropractic assistant may:

(a) Perform clinical procedures, which include:

1. Preparing patients for the chiropractic physician's care.

2. Taking vital signs.

3. Observing and reporting patients' signs or symptoms.

(b) Administer basic first aid.

(c) Assist with patient examinations or treatments other than manipulations or adjustments.

(d) Operate <u>therapeutic</u> office equipment.

(e) Collect routine laboratory specimens as directed by the chiropractic physician or certified chiropractic physician's assistant.

(f) Administer nutritional supplements as directed by the chiropractic physician or certified chiropractic physician's assistant.

(g) Perform office procedures required by the chiropractic physician or certified chiropractic physician's assistant under direct supervision of the chiropractic physician or certified chiropractic physician's assistant.

(3) REGISTRATION.—

(a) A registered chiropractic assistant shall register with ~~assistants may be registered by~~ the board for a biennial fee not to exceed $25. Effective April 1, 2013, a person must register with the board as a registered chiropractic assistant if the person performs any duties described in subsection (2), unless the person is otherwise certified or licensed to perform those duties.

(b) A person employed as a registered chiropractic assistant shall submit to the board an initial application for registration by March 31, 2013, or within 30 days after becoming employed as a registered chiropractic assistant, whichever occurs later, specifying the applicant's place of employment and the names of all chiropractic physicians under whose supervision the applicant performs the duties described in subsection (2). The application for registration must be signed by a chiropractic physician who is an owner of the place of employment specified in the application. Upon the board's receipt of the application, the effective date of the registration is April 1, 2013, or applies retroactively to the applicant's date of employment as a registered chiropractic assistant, whichever occurs later, and the registered chiropractic assistant may be supervised by any licensed chiropractic physician or certified chiropractic physician's assistant who is employed by the registered chiropractic assistant's employer or who is listed on the registration application.

(c) A registered chiropractic assistant, within 30 days after a change of employment, shall notify the board of the new

place of employment and the names of all chiropractic physicians under whose supervision the registered chiropractic assistant performs duties described in subsection (2) at the new place of employment. The notification must be signed by a chiropractic physician who is an owner of the new place of employment. Upon the board's receipt of the notification, the registered chiropractic assistant may be supervised by any licensed chiropractic physician or certified chiropractic physician's assistant who is employed by the registered chiropractic assistant's new employer or who is listed on the notification.

(d) Within 30 days after a registered chiropractic assistant is no longer employed at his or her place of employment as registered with the board, the registered chiropractic assistant's employer as registered with the board shall notify the board that the registered chiropractic assistant is no longer employed by that employer.

(e) An employee who performs none of the duties described in subsection (2) is not eligible to register under this subsection.

(4) REGISTERED CHIROPRACTIC ASSISTANT REGISTRATION RENEWAL.—

(a) A registered chiropractic assistant's registration must be renewed biennially. Each renewal must include:

1. A renewal fee as set by the board, not to exceed $25.

2. The registered chiropractic assistant's current place of employment and the names of all chiropractic physicians under whose supervision the applicant performs duties described in subsection (2). The application for registration renewal must be

signed by a chiropractic physician who is an owner of the place of employment specified in the application.

(b) Upon registration renewal, the registered chiropractic assistant may be supervised by any licensed chiropractic physician or certified chiropractic physician's assistant who is employed by the registered chiropractic assistant's employer or who is listed on the registration renewal.

(5) APPLICATION AND NOTIFICATION FORMS.—The board shall prescribe by rule the forms for the registration application, notification, and registration renewal that are required under subsections (3) and (4). The board may accept or may require electronically submitted registration applications, notifications, registration renewals, attestations, or signatures in lieu of paper applications, notifications, renewals, or attestations or actual signatures.

(6) SIGNATURE REQUIREMENTS.—If a registered chiropractic assistant is employed by an entity that is not owned in whole or in part by a licensed chiropractic physician under s. 460.4167, the documents requiring signatures under this section must be signed by a person having an ownership interest in the entity that employs the assistant and by the licensed chiropractic physician who supervises the assistant. In lieu of written signatures, the board may provide for electronic alternatives to signatures if an application is submitted electronically, in which instance all other requirements in this section apply.

Section 7. Section 460.4167, Florida Statutes, is amended to read:

460.4167 Proprietorship by persons other than licensed

chiropractic physicians.—

(1) A ~~No~~ person ~~other than a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more chiropractic physicians licensed under this chapter or by a chiropractic physician licensed under this chapter and the spouse, parent, child, or sibling of that chiropractic physician~~ may not employ a chiropractic physician licensed under this chapter or engage a chiropractic physician licensed under this chapter as an independent contractor to provide services that chiropractic physicians are authorized to offer ~~by this chapter to be offered by a chiropractic physician licensed~~ under this chapter, unless the person is any of the following~~, except for~~:

(a) A sole proprietorship, group practice, partnership, corporation, limited liability company, limited partnership, professional association, or any other entity that is wholly owned by:

1. One or more chiropractic physicians licensed under this chapter;

2. A chiropractic physician licensed under this chapter and the spouse or surviving spouse, parent, child, or sibling of the chiropractic physician; or

3. A trust whose trustees are chiropractic physicians licensed under this chapter and the spouse, parent, child, or sibling of a chiropractic physician.

If the chiropractic physician described in subparagraph (a)2. dies, notwithstanding part X of chapter 400, the surviving

spouse or adult children may hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the chiropractic physician's ownership interests for so long as the surviving spouse or adult children remain the sole proprietors of the chiropractic practice.

(b) ~~(a)~~ A sole proprietorship, group practice, partnership, ~~or~~ corporation, limited liability company, limited partnership, professional association, or any other entity that is wholly owned by a physician or physicians licensed under this chapter, chapter 458, chapter 459, or chapter 461.

(c) ~~(b)~~ An entity ~~Entities~~ that is wholly ~~are~~ owned, directly or indirectly, by an entity licensed or registered by the state under chapter 395.

(d) ~~(c)~~ A clinical facility that is ~~facilities~~ affiliated with a college of chiropractic accredited by the Council on Chiropractic Education at which training is provided for chiropractic students.

(e) ~~(d)~~ A public or private university or college.

(f) ~~(e)~~ An entity wholly owned and operated by an organization that is exempt from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code, a ~~any~~ community college or university clinic, or an ~~and any~~ entity owned or operated by the Federal Government or by state government, including any agency, county, municipality, or other political subdivision thereof.

(g) ~~(f)~~ An entity owned by a corporation the stock of which is publicly traded.

(h) ~~(g)~~ A clinic licensed under part X of chapter 400 which

~~that~~ provides chiropractic services by a chiropractic physician licensed under this chapter and other health care services by physicians licensed under chapter 458 or~~,~~ chapter 459, ~~or chapter 460,~~ the medical director of which is licensed under chapter 458 or chapter 459.

(i)~~(h)~~ A state-licensed insurer.

(j) A health maintenance organization or prepaid health clinic regulated under chapter 641.

(2) A ~~No~~ person other than a chiropractic physician licensed under this chapter may not ~~shall~~ direct, control, or interfere with a chiropractic physician's clinical judgment regarding the medical necessity of chiropractic treatment. For purposes of this subsection, a chiropractic physician's clinical judgment does not apply to chiropractic services that are contractually excluded, the application of alternative services that may be appropriate given the chiropractic physician's prescribed course of treatment, or determinations that compare ~~comparing~~ contractual provisions and scope of coverage with a chiropractic physician's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or prepaid limited health service organization.

(3) Any lease agreement, rental agreement, or other arrangement between a person other than a licensed chiropractic physician and a chiropractic physician whereby the person other than a licensed chiropractic physician provides the chiropractic physician with chiropractic equipment or chiropractic materials must ~~shall~~ contain a provision whereby the chiropractic physician expressly maintains complete care, custody, and

control of the equipment or practice.

(4) The purpose of this section is to prevent a person other than the ~~a~~ licensed chiropractic physician from influencing or otherwise interfering with the exercise of the ~~a~~ chiropractic physician's independent professional judgment. In addition to the acts specified in subsection (2) ~~(1)~~, a person or entity other than an employer or entity authorized in subsection (1) ~~a licensed chiropractic physician and any entity other than a sole proprietorship, group practice, partnership, or corporation that is wholly owned by one or more chiropractic physicians licensed under this chapter or by a chiropractic physician licensed under this chapter and the spouse, parent, child, or sibling of that physician,~~ may not employ or engage a chiropractic physician licensed under this chapter. A person or entity may not ~~or~~ enter into a contract or arrangement with a chiropractic physician pursuant to which such ~~unlicensed~~ person or ~~such~~ entity exercises control over the following:

(a) The selection of a course of treatment for a patient, the procedures or materials to be used as part of the ~~such~~ course of treatment, and the manner in which the ~~such~~ course of treatment is carried out by the chiropractic physician ~~licensee~~;

(b) The patient records of the chiropractic physician ~~a chiropractor~~;

(c) The policies and decisions relating to pricing, credit, refunds, warranties, and advertising; or

(d) The decisions relating to office personnel and hours of practice.

However, a person or entity that is authorized to employ a chiropractic physician under subsection (1) may exercise control over the patient records of the employed chiropractic physician; the policies and decisions relating to pricing, credit, refunds, warranties, and advertising; and the decisions relating to office personnel and hours of practice.

(5) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082 ~~s. 775.081~~, s. 775.083, or s. 775.084 ~~s. 775.035~~.

(6) Any contract or arrangement entered into or undertaken in violation of this section is ~~shall be~~ void as contrary to public policy. ~~This section applies to contracts entered into or renewed on or after July 1, 2008.~~

Section 8. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 413 (2012)

Amendment No. 1

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

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative Mayfield offered the following:

Amendment

Remove line 141 and insert:

~~and~~ III, and IV, and the physiotherapy examination of the National Board of Chiropractic Examiners, with a score approved by the board.

589745

Approved For Filing: 12/5/2011 5:59:06 PM

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative Mayfield offered the following:

Amendment (with title amendment)

Remove lines 253-361

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

Remove lines 24-64 and insert:

physician's assistants; amending s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 479 Animal Control
SPONSOR(S): O'Toole and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 654

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee		Poche	Calamas
2) Agriculture & Natural Resources Subcommittee			
3) Rulemaking & Regulation Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

Animal control services in Florida are administered by county and municipal government agencies and by humane societies registered to do business with the Secretary of State. One of the services provided by the agencies and societies is euthanasia of sick, injured and abandoned animals. These facilities are required by law and rule to obtain a permit that allows the purchase, possession and use of euthanasia drugs. Currently, the only acceptable methods of euthanizing domestic animals in the state are injections of sodium pentobarbital or a sodium pentobarbital derivative, or adding sodium pentobarbital or a derivative in solution or powder form to food.

House Bill 479 expands the list of drugs that can be used to euthanize domestic animals and adds certain drugs that may be used to immobilize domestic animals. The bill allows agencies and societies to obtain drugs for the purpose of chemical immobilization using the same permit for obtaining drugs for euthanasia. The bill allows the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to expand the list of drugs that may be used to euthanize or immobilize domestic animals in the future if findings support the addition of drugs to the list for humane and lawful treatment of animals. The bill limits the possession and use of these drugs to animal control officers and employees or agents of animal control agencies and humane societies while operating within the scope of their employment or official duties.

House Bill 479 eliminates food-based delivery of euthanasia drugs as an acceptable method of euthanization. The bill permits euthanasia by intracardial injection only upon a dog or cat which is unconscious and exhibits no corneal reflex.

Lastly, House Bill 479 requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report to the Department of Health knowledge of any animal bite, diagnosis or suspicion of a group of animals having similar disease, or any symptom or syndrome that may pose a threat to humans.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Animal Control in Florida

Animal control agencies operated by a humane society or by a city, county or other political subdivision are generally responsible for enforcing state, county and local animal control laws and regulations in Florida. Animal control officers employed or appointed by a county or municipality are authorized to investigate violations of animal control laws or regulations.[1] The governing body of a county or municipality is authorized to enact animal control ordinances.[2]

Euthanasia of Domestic Animals in Florida

Euthanasia is the act or practice of killing or permitting the death of sick or injured animals in a relatively painless way for reasons of mercy.[3] Approximately 5 million to 7 million companion animals enter animal shelters nationwide every year, and approximately 3 million to 4 million are euthanized.[4] There are various means of euthanasia employed throughout the United States, some of which are considered humane[5] and some of which are considered inhumane.[6] In Florida, the only approved drugs for use in euthanasia of domestic animals are sodium pentobarbital[7] or a sodium pentobarbital derivative. Euthanasia drugs are to be delivered by the following methods, in order of preference:

- Intravenous injection by hypodermic needle;
- Intraperitoneal injection by hypodermic needle;
- Intracardial injection by hypodermic needle; or
- Solution or powder added to food. [8]

County or municipal animal control agencies or humane agencies registered with the Secretary of State are regulated under county and municipal ordinances related to animal control and, in part, by chapter 828, Florida Statutes. In order for an animal control agency or humane agency to provide euthanasia services, the agency must obtain a permit from the Department of Health (DOH) to purchase, possess, and use the euthanasia drugs approved by statute. Current law states that the Department of Business and Professional Regulation (DBPR) is responsible for receiving the application for, and issuing, the permit.[9] The law was enacted at a time when health care professional boards were administratively housed under DPBR. However, due to reorganization of DBPR and the DOH, DOH and the Board of Pharmacy have primary responsibility for evaluating applications for the permit, issuing the permit, and taking disciplinary actions against holders of the permit for violations of law and rule.

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[1] S. 828.27, F.S.
[2] S. 828.27(2), F.S.
[3] *See* www.merriam-webster.com/dictionary/euthanasia (last viewed November 29, 2011).
[4] *See* American Society for the Prevention of Cruelty to Animals, *Pet Statistics*, at www.aspca.org/about-us/faq/pet-statistics.aspx (last viewed November 29, 2011).
[5] *See* American Veterinary Medical Association Guidelines on Euthanasia, June 2007, Appendix 2, pages 30-31(for example, use of barbiturate drugs, carbon dioxide, carbon monoxide, inhalant anesthetics, penetrating captive bolt, and potassium chloride).
[6] *See id.* at Appendix 4, pages 35-36 (for example, air embolism, burning, chloroform, cyanide, decompression, drowning, and exsanguinations).
[7] Sodium pentobarbital is a barbiturate that is used as a sedative, hypnotic and antispasmodic. When administered in high doses for purposes of euthanasia, sodium pentobarbital causes unconsciousness, followed rapidly by respiratory and cardiac arrest resulting in death.
[8] S. 828.058(1), F.S.
[9] S. 828.055(2), F.S.

The Board of Pharmacy, within the Department of Health, has adopted rules to govern the issuance of permits to county or municipal animal control agencies or humane agencies registered with the Secretary of State to purchase, possess, and use sodium pentobarbital and sodium pentobarbital with lidocaine to euthanize sick, injured or abandoned domestic animals.[10] Currently, there are 105 active animal control shelter permits with Board of Pharmacy.[11] The initial cost of the permit is $50.00 and is renewable biennially.[12] DBPR currently issues exemption letters to fewer than 20 entities which authorize the entities to possess immobilizers without violating s. 499.03, F.S., which imposes criminal sanctions for the unauthorized possession of habit-forming, toxic, harmful, or new drugs.[13] DBPR does not charge a fee for issuing the exemption letter.[14]

Euthanasia can only be performed by a licensed veterinarian or an employee or agent of an agency, animal shelter or other facility operated for the collection and care or stray, neglected, abandoned, or unwanted animals if the employee or agent has completed an euthanasia technician certification course.[15] However, any law enforcement officer, veterinarian, officer or agent of a municipal or county animal control unit, or officer or agent of any society or association for the prevention of cruelty to animals may destroy a sick or injured animal by shooting the animal or injecting it with a barbiturate drug if the officer or agent finds the animal so injured or sick as to appear useless and suffering, and the officer or agent reasonably believes the animal is imminently near death or cannot be cured, and a reasonable attempt is made to locate the owner of the animal or a veterinarian for consultation regarding destruction of the animal.[16]

Chemical Immobilization of Animals

Chemical immobilization is the anesthesia of wild, free-ranging, feral animals or animals that are fractious or unaccustomed to human contact.[17] Chemical immobilization can be given with restraint of the animal (intravenous, intraperitoneal or intracardial delivery of the drug) or without restraint of the animal (compressed air delivery systems, modified firearms, or blow darts). Chemical immobilization should be considered an action of last resort when all other means of restraining an animal are insufficient.[18] The danger posed to the animal and the community must outweigh the risk posed to the animal's life by the drugs used to immobilize it before it is used.[19]

Three major types of drugs used to immobilize animals are opioids, arylcyclohexamines, and neuroleptics. Opioids cause loss of consciousness and alleviate the perception of pain.[20] They are highly potent and effective in relatively small doses.[21] As a result, there is a wide margin of safety in using opioids because the effects can be immediately reversed.[22] Common opioids used in animal immobilization are carfentanil, etorphine, sufentanil, fentanyl, and butorphanol.[23] Arylcyclohexamines produce altered states of consciousness by dissociating mental state from stimulation created by the environment.[24] An animal under the influence of arylcyclohexamines cannot walk but retains many vital functions and reflexes, such

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[10] S. 828.055(1), F.S.; *see also* Chapter 64B16-29, F.A.C.
[11] HB 479 Bill Analysis, Economic Statement and Fiscal Note, Department of Health, at page 6, November 30, 2011 (on file with the Health and Human Services Quality subcommittee).
[12] Rule 64B16-29.002(1)(a) and (b), F.A.C.
[13] S. 499.03(1), F.S.
[14] 2012 Legislative Analysis Form for HB 479, Office of Legislative Affairs, Department of Business and Professional Regulation, dated December 2, 2011, page 4 (on file with the Health and Human Services Quality subcommittee).
[15] S. 828.058(4)(a), F.S.
[16] S. 828.05(3), F.S.
[17] *See* Chemical Immobilization presentation, Auburn University School of Forestry and Wildlife Services, slide 2 available at https://fp.auburn.edu/sfws/ditchkoff/Course%20Pages/6291/Chemical%20Immobilization.ppt (hard copy on file with Health and Human Services Quality subcommittee)
[18] *See id.* at slide 4.
[19] *See id.*
[20] *See id.* at slide 26.
[21] *See id.*
[22] *See id.*
[23] *See id.* at slide 27.
[24] *See id.* at slide 28.

as blinking, swallowing and motion other than walking.[25] Common arylcyclohexamines include ketamine[26], tiletamine[27], and phencyclidine.[28] It is important to note that the affect of arylcyclohexamines is not reversible and must be used in conjunction with neuroleptics to achieve sufficient and safe immobilization.[29] Neuroleptics are tranquilizers, producing calmness and relaxation.[30] Neuroleptics do not cause loss of consciousness or alleviate pain perception.[31] These drugs are used in conjunction with opioids and arylcyclohexamines.[32] Common neuroleptics include diazapam[33] and xylazine.[34]

Disease Reporting

Section 381.0031, F.S., requires certain medical providers, any hospital licensed under chapter 395, and any laboratory licensed under chapter 483 to report to the DOH the diagnosis or suspicion of a disease of public health importance.[35] The DOH is required to periodically issue a list of infectious and noninfectious diseases which it determines to be a threat to public health and therefore of public health importance.[36] The current list of diseases or conditions to be reported includes, but is not limited to,[37]:

Acquired Immune Deficiency Syndrome (AIDS)	Amebic Encephalitis
Botulism	Chlamydia
Cholera	Diptheria
Gonorrhea	Hepatitis A, B, C, D, E and G
Human Immunodeficiency Virus (HIV)	Influenza
Lyme disease	Meningitis
Mumps	Plague
Rabies	Smallpox
Syphilis	Tuberculosis
Typhoid fever	Viral hemorrhagic fevers
West Nile virus	Yellow fever

The diseases or conditions listed in the rule must be reported by telephone, facsimile, electronic data transfer, or other confidential means of communication to the County Health Department having jurisdiction for the area in which the disease or condition is found and within the time period specified by rule.[38] Additional rules provide for written reports to be issued by practitioners, laboratories, medical facilities, and other persons following the initial reporting of a disease or condition of public health significance.[39]

The following persons are required to report suspected rabies exposure to humans, as well as conditions that are diagnosed or suspected in animals, pursuant to subsection 64D-3.039(2), F.A.C.[40]:

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[25] *See id.*
[26] Also known by the street name "Special K".
[27] Also marketed under the brand name Telazol®.
[28] Also known as the street drug "PCP".
[29] *See supra* at FN 11, slide 29.
[30] *See id.* at slide 30.
[31] *See id.*
[32] *See id.*
[33] Marketed as Valium®; provides a calming effect with muscle relaxation.
[34] Marketed under the brand names Rompun® and Tolazine®; also called cervizine and anased; effects are immediately and completely reversible.
[35] S. 381.0031(1), F.S.
[36] S. 381.0031(2), F.S.
[37] The complete list of diseases or conditions to be reported is codified at Rule 64D-3.029(3), F.A.C.
[38] Rule 64D-3.029(1), F.A.C.; the time period for reporting varies according to the severity of the threat to public health posed by the identified disease or condition.
[39] Rule 64D-3.030, F.A.C. (notification by practitioners); Rule 64D-3.031, F.A.C. (notification by laboratories); Rule 64D-3.032, F.A.C. (notification by medical facilities); Rule 64D-3.033, F.A.C. (notification by others).
[40] The rule states "Any grouping or clustering of animals having similar disease, symptoms or syndromes that may indicate the presence of a threat to humans including those for biological agents associated with terrorism shall be reported."

- Animal control officers operating under s. 828.27, F.S.;
- Employees or agents of a public or private agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals;
- Animal disease laboratories licensed under s. 585.61, F.S.;
- Wildlife officers operating under s. 372.07, F.S.;
- Wildlife rehabilitators permitted by the Fish and Wildlife Conservation Commission; and
- Florida state park personnel operating under s. 258.007, F.S.[41]

Effect of Proposed Changes

The bill expands the list of controlled substances and legend drugs that can be used for the purpose of euthanasia or immobilization to include:

- Tiletamine hydrochloride, alone or in combination with zolazepam (Telazol®)- both drugs are schedule III drugs in Florida; non-narcotic, non-barbiturate injectable anesthetic
- Xylazine (Rompun®)- a sedative that provides pain relief and muscle relaxation; not a controlled substance in Florida
- Ketamine- schedule III drug in Florida; anesthetic
- Acepromazine maleate (Atravet®)- not a controlled substance in Florida; a tranquilizer used for dogs, cats, and horses, also helps control seizures
- Acetylpromazine (Acezine 2)- not a controlled substance in Florida; used as a chemical restraint to quiet and calm frightened and aggressive animals
- Etorphine (Immobilon®)- Schedule I drug in Florida; used for immobilizing animals; resembles morphine by causing analgesia and catatonia, blocking conditional reflexes, and providing an anti-diuretic effect
- Yohimbine hydrochloride- not a controlled substance in Florida; used to reverse the effects of xylazine in dogs
- Atipamezole (Antisedan®)- not a controlled substance in Florida; reverses the sedative and analgesic effects of certain drugs in dogs

The bill will eliminate the need for an animal control agency or humane agency to obtain an exemption letter from DBPR in order to purchase, possess and use drugs for euthanasia and chemical immobilization listed in the bill.

The bill further limits acceptable methods of administering drugs for euthanasia to animals. First, an injection into the heart of a dog or cat by hypodermic needle is appropriate only if the dog or cat is unconscious with no corneal reflex. The corneal reflex is tested by pressing on the eye of the animal. If the animal blinks or the eye moves, the animal is conscious and intracardial injection cannot be used. Second, the bill removes food-based delivery of euthanasia drugs as an acceptable method of euthanization.

Lastly, the bill requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans. This provision is consistent with Rule 64D-3.033, F.A.C., which currently requires animal control officers, animal disease laboratories, and wildlife officers to report suspected rabies exposure to humans and conditions that they diagnose or suspect in any grouping or clustering of animals having similar diseases, symptoms, or syndromes that may indicate the presence of a threat to humans, including those for biological agents associated with terrorism.

[41] Rule 64D-3.033(1), F.A.C.

B. SECTION DIRECTORY:

Section 1: Amends s. 828.055, F.S., relating to sodium pentobarbital; permits for use in euthanasia of domestic animals;
Section 2: Amends s. 828.058, F.S., relating to euthanasia of dogs and cats;
Section 3: Amends s. 381.0031, F.S., relating to report of diseases of public health significance to department;
Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

An increase in the number of permits filed by facilities seeking to purchase, possess and use the drugs authorized by the bill for chemical immobilization and euthanasia will result in the collection of additional permit fees. At a minimum, the entities which currently obtain exemption letters from DBPR to possess and use immobilizers are likely to apply for a permit from DOH to purchase, possess and use these drugs. According to DBPR, it issues fewer than 20 exemption letters for this purpose. Assuming 20 entities apply for a permit, at a cost of $50 per permit, DOH will collect, at a minimum, $1,000 in permit fees. It is possible that additional animal control agencies and humane agencies will apply for the permit, which will increase revenue collected from permit fees.

2. Expenditures:

The increased number of permit applications will increase the workload of the Board of Pharmacy to review and certify applications. The increased number of permit applications will increase the workload of DOH to approve or deny permits. The Board of Pharmacy and DOH can handle the increased workload within existing resources. DOH also expects to incur non-recurring costs for rulemaking as required by the bill which current budget authority can absorb adequately.[42] DBPR expects an insignificant reduction in work load as a result of no longer issuing exemption letters to allow animal shelters to possess certain drugs without violating s. 499.03, F.S.[43]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will result in savings to certain animal control agencies. Without exemption letters allowing purchase and possession without the need to maintain a veterinarian on staff, animal control agencies

[42] *See supra* at FN 9, at page 4.
[43] *See supra* at FN 41.

were forced to contract with veterinarians in the community in order to obtain certain controlled substances for use in chemical immobilization.[44] Because private veterinarians were using their license to obtain the controlled substances for use by another party, the fees charged by private veterinarians were substantial, averaging between $10,000 and $30,000.[45] Smaller animal control agencies with smaller budgets could not afford to pay those fees. The bill allows all animal control agencies to use the same permit used to obtain drugs for euthanasia to obtain drugs for chemical immobilization without paying additional fees.

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.

B. RULE-MAKING AUTHORITY:

The bill provides appropriate rulemaking authority to the Board of Pharmacy to implement the provisions of the proposed legislation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[44] Veterinarians are authorized to prescribe, dispense, and administer drugs for animals within the practice of veterinary medicine under s. 474.202(9), F.S.

[45] Florida Animal Control Association, Scott Trebatoski, President, telephone conference with Health and Human Services Quality subcommittee staff, November 29, 2011.

A bill to be entitled

An act relating to animal control; amending s. 828.055, F.S.; requiring that the Board of Pharmacy adopt rules relating to the issuance of permits authorizing the purchase, possession, and use of certain controlled substances and legend drugs necessary for the euthanasia and chemical immobilization of animals; authorizing the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals; providing that only certain persons are authorized to possess and use such drugs while operating in the scope of their employment or official duties; amending s. 828.058, F.S.; restricting the use of intracardial injection to an unconscious animal; prohibiting the delivery of a lethal solution or powder by adding it to food; amending s. 381.0031, F.S.; requiring that an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans; providing an effective date.

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

Section 1. Section 828.055, Florida Statutes, is amended to read:

828.055 Controlled substances and legend drugs ~~Sodium pentobarbital~~; permits for use in euthanasia of ~~domestic~~ animals.—

(1) The Board of Pharmacy shall adopt rules providing for the issuance of permits authorizing the purchase, possession, and use of controlled substances and legend drugs, including ~~of~~ sodium pentobarbital and sodium pentobarbital with lidocaine tiletamine hydrochloride, alone or combined with zolazepam (including Telazol), xylazine (including Rompun), ketamine, acepromazine maleate (also acetylpromazine, and including Atravet or Acezine 2), alone or combined with etorphine (including Imobilon), yohimbine hydrochloride, alone or combined with atipamezole (including Antisedan), by county or municipal animal control agencies or humane societies registered with the Secretary of State for the purpose of euthanizing injured, sick, or abandoned domestic animals that ~~which~~ are in their lawful possession or for the purpose of chemically immobilizing the animals. The rules shall set ~~forth~~ guidelines for the proper storage and handling of these drugs ~~sodium pentobarbital and sodium pentobarbital with lidocaine~~ and ~~such~~ other provisions as may be necessary to ensure that the drugs are used solely for the purpose set forth in this section. The rules shall also provide for an application fee not to exceed $50 and a biennial renewal fee not to exceed $50. At the request and recommendation

of the Board of Veterinary Medicine, the Board of Pharmacy may adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals upon a finding that such additions are necessary for the humane and lawful treatment of those animals.

(2) Any county or municipal animal control agency or any humane society registered with the Secretary of State may apply to the Department of Business and Professional Regulation for a permit to purchase, possess, and use these drugs ~~sodium pentobarbital or sodium pentobarbital with lidocaine~~ pursuant to subsection (1). Upon certification by the board that the applicant meets the qualifications set forth in the rules, the department shall issue the permit. The possession and use of these drugs is limited to those employees or agents of the permittee certified in accordance with s. 828.058 or s. 828.27 while operating in the scope of their employment or official duties with the permittee.

(3) The board may revoke or suspend the permit upon a determination that the permittee is using any of these drugs ~~sodium pentobarbital or sodium pentobarbital with lidocaine~~ for any purpose other than that set forth in this section or if the permittee fails to follow the rules of the board regarding proper storage and handling.

Section 2. Subsection (1) of section 828.058, Florida Statutes, is amended to read:

828.058 Euthanasia of dogs and cats.—

(1) Sodium pentobarbital, a sodium pentobarbital

derivative, or other agent that the Board of Veterinary Medicine may approve by rule shall be the only methods used for euthanasia of dogs and cats by public or private agencies, animal shelters, or other facilities that operate ~~which are operated~~ for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

(a) Intravenous injection by hypodermic needle;

(b) Intraperitoneal injection by hypodermic needle; or

(c) If the dog or cat is unconscious with no corneal reflex, intracardial injection by hypodermic needle.~~; or~~

~~(d) Solution or powder added to food.~~

Section 3. Section 381.0031, Florida Statutes, is amended to read:

381.0031 Public health surveillance and investigation ~~Report of diseases of public health significance to department~~.—

(1) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathy, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory licensed under chapter 483 which ~~that~~ diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

(2) Periodically the department shall issue a list of infectious or noninfectious diseases that the department determines ~~determined by it~~ to be a threat to public health and therefore of significance to public health and shall furnish a copy of the list to the practitioners listed in subsection (1).

(3) Reports required by this section must be in accordance with methods specified by rule of the department.

(4) Information submitted in reports required by this section is confidential, exempt from the provisions of s. 119.07(1), and is to be made public only when necessary to public health. A report so submitted is not a violation of the confidential relationship between practitioner and patient.

(5) The department may obtain and inspect copies of medical records, records of laboratory tests, and other medical-related information for reported cases of diseases of public health significance described in subsection (2). The department shall examine the records of a person who has a disease of public health significance only for purposes of preventing and eliminating outbreaks of disease and making epidemiological investigations of reported cases of diseases of public health significance, notwithstanding any other law to the contrary. Health care practitioners, licensed health care facilities, and laboratories shall allow the department to inspect and obtain copies of such medical records and medical-related information, notwithstanding any other law to the contrary. Release of medical records and medical-related information to the department by a health care practitioner, licensed health care facility, or laboratory, or by an authorized employee or agent thereof, does not constitute a violation of the confidentiality of patient records. A health care practitioner, health care facility, or laboratory, or any employee or agent thereof, may not be held liable in any manner for damages and is not subject to criminal penalties for providing patient records to the

department as authorized by this section.

(6) An animal control officer operating under s. 828.27, a wildlife officer operating under s. 379.3311, and an animal disease diagnostic laboratory operating under s. 585.61 shall report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans.

(7) ~~(6)~~ The department may adopt rules related to reporting diseases of significance to public health, which must specify the information to be included in the report, who is required to report, the method and time period for reporting, requirements for enforcement, and required followup activities by the department which are necessary to protect public health.

This section does not affect s. 384.25.

Section 4. This act shall take effect July 1, 2012.

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	_____

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative O'Toole offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 381.0031, Florida Statutes, is amended to read:

381.0031 Report of diseases of public health significance to department.—

(1) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathy, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory licensed under chapter 483 that diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

(2) An animal control officer operating under s. 828.27, a wildlife officer operating under s. 379.3311, or an animal

disease laboratory operating under s. 585.61 shall report knowledge of any animal bite, diagnosis of disease in an animal, or suspicion of a grouping or clustering of animals having similar disease, symptoms, or syndromes that may indicate the presence of a threat to humans.

(3) ~~(2)~~ ~~Periodically~~ The department shall periodically issue a list of infectious or noninfectious diseases determined by it to be a threat to public health and therefore of significance to public health and shall furnish a copy of the list to the practitioners listed in subsection (1).

(4) ~~(3)~~ Reports required by this section must be in accordance with methods specified by rule of the department.

(5) ~~(4)~~ Information submitted in reports required by this section is confidential, exempt from the provisions of s. 119.07(1), and is to be made public only when necessary to public health. A report so submitted is not a violation of the confidential relationship between practitioner and patient.

(6) ~~(5)~~ The department may obtain and inspect copies of medical records, records of laboratory tests, and other medical-related information for reported cases of diseases of public health significance described in subsection (3) ~~(2)~~. The department shall examine the records of a person who has a disease of public health significance only for purposes of preventing and eliminating outbreaks of disease and making epidemiological investigations of reported cases of diseases of public health significance, notwithstanding any other law to the contrary. Health care practitioners, licensed health care facilities, and laboratories shall allow the department to

inspect and obtain copies of such medical records and medical-related information, notwithstanding any other law to the contrary. Release of medical records and medical-related information to the department by a health care practitioner, licensed health care facility, or laboratory, or by an authorized employee or agent thereof, does not constitute a violation of the confidentiality of patient records. A health care practitioner, health care facility, or laboratory, or any employee or agent thereof, may not be held liable in any manner for damages and is not subject to criminal penalties for providing patient records to the department as authorized by this section.

(7) ~~(6)~~ The department may adopt rules related to reporting diseases of significance to public health, which must specify the information to be included in the report, who is required to report, the method and time period for reporting, requirements for enforcement, and required followup activities by the department which are necessary to protect public health.

(8) This section does not affect s. 384.25.

Section 2. Section 828.055, Florida Statutes, is amended to read:

828.055 Controlled substances and legend drugs ~~Sodium pentobarbital~~; permits for use ~~in euthanasia of domestic animals~~.—

(1) The Board of Pharmacy shall adopt rules providing for the issuance of permits authorizing the purchase, possession, and use of sodium pentobarbital, ~~and~~ sodium pentobarbital with lidocaine, tiletamine hydrochloride, alone or combined with

zolazepam (including Telazol), xylazine (including Rompun), ketamine, acepromazine maleate (also acetylpromazine, and including Atravet or Acezine), alone or combined with etorphine (including Immobilon); and yohimbine hydrochloride, alone or combined with atipamezole (including Antisedan) by county or municipal animal control agencies or humane societies registered with the Secretary of State for the purpose of euthanizing injured, sick, or abandoned domestic animals which are in their lawful possession or for the chemical immobilization of animals. The rules shall set forth guidelines for the proper storage and handling of these prescription drugs ~~sodium pentobarbital and sodium pentobarbital with lidocaine~~ and such other provisions as may be necessary to ensure that the drugs are used solely for the purpose set forth in this section. The rules shall also provide for an application fee not to exceed $50 and a biennial renewal fee not to exceed $50. Upon formal, written request and recommendation adopted in a public meeting by the Board of Veterinary Medicine, the Board of Pharmacy may, by rule, add controlled substances and legend drugs to the list of prescription drugs in this subsection upon a finding that such additions are necessary for the humane and lawful euthanasia of injured, sick, or abandoned domestic animals or chemical immobilization of animals.

(2) Any county or municipal animal control agency or any humane society registered with the Secretary of State may apply to the ~~Department of Business and Professional Regulation~~ Department of Health for a permit to purchase, possess, and use the prescription drugs authorized under ~~sodium pentobarbital or~~

~~sodium pentobarbital with lidocaine pursuant to~~ subsection (1). Upon certification by the B~~b~~oard of Pharmacy that the applicant meets the qualifications set forth in the rules, the D~~d~~epartment of Health shall issue the permit. The possession and use of the prescription drugs authorized under subsection (1) is limited to those employees or agents of the permittee certified in accordance with s. 828.058 or s. 828.27 while operating in the scope of their respective official or employment duties with the permittee.

(3) The department or the board may deny a permit, and revoke, suspend, or refuse to renew the permit of any permittee, and may fine, place on probation, or otherwise discipline any permittee, upon a determination that:

~~The board may revoke or suspend the permit upon a determination that~~

(a) The applicant or permittee or any of its employees or agents is using or has used a prescription drug authorized under subsection (1) ~~sodium pentobarbital or sodium pentobarbital with lidocaine~~ for any purpose other than that set forth in this section ~~or if the permittee fails to follow the rules of the board regarding proper storage or handling~~;

(b) The applicant or permittee has failed to take reasonable precautions against misuse, theft, loss, or diversion of such prescription drugs;

(c) The applicant or permittee has failed to detect or to report to the Department of Health a significant loss, theft, or inventory shortage of such prescription drugs;

(d) The applicant or permittee has failed to follow the rules of the Board of Pharmacy regarding proper storage and handling of such prescription drugs; or

(e) The permittee has violated any provision of this section, chapter 465, chapter 499, or any rule adopted under those chapters.

(4) The Board shall adopt rules implementing subsection (3), provided that disciplinary action may be taken only for a substantial violation of the provisions of this section or the rules adopted under this section. In determining the severity of an administrative penalty to be assessed under this section, the Department or the Board of Pharmacy shall consider:

(a) The severity of the violation;

(b) Any actions taken by the person to correct the violation or to remedy complaints, and the timing of those actions; and

(c) Any previous violations.

(5) The Department of Health may issue an emergency order immediately suspending a permit issued under this section upon a determination that a permittee, as a result of any violation of any provision of this section or any rule adopted under this section, presents a danger to the public health, safety, and welfare.

(6) This section shall not apply to licensed pharmacies, veterinarians, or health care practitioners operating within the scope of the applicable professional act.

Section 3. Subsection (1) of section 828.058, Florida Statutes, is amended to read:

828.058 Euthanasia of dogs and cats.—

(1) Sodium pentobarbital, a sodium pentobarbital derivative, or other agent the Board of Veterinary Medicine may approve by rule shall be the only methods used for euthanasia of dogs and cats by public or private agencies, animal shelters, or other facilities which are operated for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

(a) Intravenous injection by hypodermic needle;

(b) Intraperitoneal injection by hypodermic needle; or

(c) If the dog or cat is unconscious with no corneal reflex, intracardial injection by hypodermic needle~~; or~~

~~(d) Solution or powder added to food~~.

Section 4. This act shall take effect July 1, 2012.

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

Remove the entire title and insert:

A bill to be entitled

An act relating to animal control; amending s. 381.0031, F.S.; requiring animal control officers, wildlife officers, and disease laboratories to report potential health risks to humans from animals; amending s. 828.055, F.S.; providing for use of additional prescription drugs for euthanasia and chemical immobilization of animals; providing for rulemaking to expand the list of additional prescription drugs; providing that the Board of

Pharmacy or the Department of Health may revoke or suspend a permit upon a determination that the permittee or its employees or agents is using or has used an authorized drug for other purposes or if a permittee has committed specified violations; amending s. 828.058, F.S.; restricting the use of intracardial injection for euthanizing animals; prohibiting the delivery of a lethal solution or powder by adding it to food; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4005 Department of Health
SPONSOR(S): Diaz
TIED BILLS: **IDEN./SIM. BILLS:** SB 478

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

SUMMARY ANALYSIS

HB 4005 repeals the following sections of law:

- Section 381.00325 F.S., relating to the Hepatitis A Awareness program; and
- Section 381.06015, F.S., relating to the Public Cord Blood Tissue Bank

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals two current sections of law as it relates to the Department of Health (DOH).

Hepatitis A Awareness Program

The bill repeals s. 381.00325, F.S., requiring DOH to develop a Hepatitis A Awareness Program. The purpose of the program is to provide education and information to the public regarding the availability of the Hepatitis A vaccine.

DOH, per s. 381.0011(7), F.S., is to provide information to the public regarding the prevention, control, and cure of diseases and illnesses. Under this authority, the Division of Disease Control, within DOH, currently has a Hepatitis Awareness Program web page that provides necessary information regarding vaccines and educational tools for Hepatitis A, B and C.

Public Cord Blood Tissue Bank

The bill repeals s. 381.06015, F.S., enacted in 2000, which establishes a statewide consortium known as the Public Cord Blood Tissue Bank (consortium). The consortium was intended to be a nonprofit legal entity to collect and screen for infectious and genetic disease, perform tissue typing, cryopreserve and store umbilical cord blood as a resource to the public. Pursuant to s.381.06015 (1), F.S., The University of Florida, University of South Florida, University of Miami and the Mayo Clinic Jacksonville were to make up the consortium. The consortium was never created.

B. SECTION DIRECTORY:

Section 1: Repeals s. 381.00325, F.S., related to the Hepatitis A Awareness Program.

Section 2: Repeals s. 381.06015, F.S., related to the Public Cord Blood Tissue Bank.

Section 3: Provides an effective date.

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.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Health; repealing s. 381.00325, F.S., relating to department authorization for the development of a Hepatitis A awareness program; repealing s. 381.06015, F.S., relating to the establishment of a statewide consortium known as the Public Cord Blood Tissue Bank; providing an effective date.

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

Section 1. Sections 381.00325 and 381.06015, Florida Statutes, are repealed.

Section 2. This act shall take effect July 1, 2012.

Amendment No. 1

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

Committee/Subcommittee hearing bill: Health & Human Services Quality Subcommittee

Representative Diaz offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 381.00325, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.

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

Remove lines 5-7 and insert:

awareness program;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4029 Mosquito Control Districts
SPONSOR(S): Albritton
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The bill repeals s. 388.191, F.S., which grants the board of commissioners of a mosquito control district the power of eminent domain to condemn any land or easements necessary for the purposes of mosquito control. The section also permits the board to hold, control, and acquire any real or personal property for use by the district. The board is permitted by this section to begin and maintain condemnation proceedings, pursuant to ch. 73, F.S., to obtain real and personal property by eminent domain.

Section 388.191, F.S., was enacted in 1959. Since that time, state and federal case law has greatly expanded the power of eminent domain for governmental entities. A mosquito control district is a political subdivision for purposes of properly exercising eminent domain under existing law. In addition, according to the Department of Agriculture and Consumer Services, the eminent domain power has not been used in recent memory, and would likely be unpopular if it were exerted by a mosquito control district. Recent land issues have been resolved through the purchase of land by the mosquito control district. Also, s. 388.181, F.S., grants to mosquito control districts the authority to do and perform all things necessary to carry out the provisions of mosquito control law in chapter 388, F.S. Therefore, the language in s. 388.191, F.S., is duplicative and unnecessary.

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

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Mosquito Control Districts

Section 388.101, F.S., provides that it is the public policy of the state to control mosquitoes in such a manner as to protect health and safety, improve quality of life, promote economic development, and allow for enjoyment of natural attractions of the state. To that end, the Florida Anti-Mosquito Association, now known as the Florida Mosquito Control Association, was established in 1922.[1] Soon after the creation of the association, special taxing districts for mosquito control were established by statute. The first mosquito control district (MCD) formed was the Indian River Mosquito Control District in 1925.[2] By 1935, five mosquito control districts were created.[3] There are approximately 56 MCDs in Florida.[4]

Chapter 388, F.S., governs and regulates the operation of MCDs in the state. The chapter authorizes the MCDs to take whatever steps are necessary to control all species of mosquito within the confines of applicable state and federal law.[5] Mosquito control is accomplished through a concept known as integrated mosquito management (IMM), which uses multidisciplinary methodologies to implement pest control strategies.[6] IMM includes source reduction, which includes digging ditches and ponds in marsh areas and eliminating standing water that serves as a breeding ground for mosquitoes.[7] IMM also includes the use of mosquito fish in ditches and ponds to eat mosquito larvae.[8] Another method of mosquito control is larviciding, or the application of insecticides to target and eliminate immature mosquitoes in bodies of water harboring larvae and pupae.[9] Florida MCDs use permanent strategies to control mosquitoes, including impounding water, ditching, and draining swampy areas that serve as mosquito breeding grounds. Florida MCDs also use temporary control measures, such as aerosol spraying by ground and aerial equipment to kill adult and larval mosquitoes.[10]

The Department of Agriculture and Consumer Services (DACS) administers and enforces the laws associated with mosquito control in Florida.[11] The Coordinating Council on Mosquito Control was established by statute to assist the DACS in developing and implementing guidelines to resolve disputes associated with mosquito control on public land.[12]

Section 388.191, F.S., permits the board of commissioners of an MCD to hold, control, and acquire any real or personal property for the use of the district. The section also permits the board of commissioners to condemn any land or easements for use by the district. Lastly, the section permits the board of commissioners to exercise the right of eminent domain and begin and continue condemnation proceedings pursuant to the procedure outlined in chapter 73, F.S.

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[1] Connelly, C.R. and D.B. Carlson (Eds.), 2009. Florida Coordinating Council on Mosquito Control. *Florida Mosquito Control: The state of the mission as defined by mosquito controllers, regulators, and environmental managers.* Vero Beach, FL: University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, at page 22.
[2] *Id.*
[3] *Id.* at page 23.
[4] University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, *Florida Mosquito Control*, available at http://mosquito.ifas.ufl.edu/Florida_Mosquito_Control.htm, last viewed November 15, 2011.
[5] In addition to chapter 388, F.S., chapter 487, F.S., regulates the use of pesticides in controlling mosquitoes. Chapter 5E-2, F.A.C., regulates pesticide registration in Florida. Also, states must comply with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.
[6] American Mosquito Control Association, *Control*, available at http://www.mosquito.org/control, last viewed on November 15, 2011.
[7] Leon County, Florida Mosquito Control Website, *History and Facts About Leon County Mosquito Control*, available at http://www.leoncountyfl.gov/mosquito/Ed%20&%20Info/History_&_Facts.asp, last viewed November 15, 2011.
[8] *See supra* at FN 7.
[9] *Id.*
[10] *Id.*
[11] S. 388.361, F.S.
[12] S. 388.46, F.S.; *see also supra* FN 2, at page 223.

Eminent Domain

Eminent domain is generally defined as the power of the nation or a sovereign state to take, or to authorize the taking of, private property for a public use without the owner's consent, conditioned upon the payment of just compensation.[13] Eminent domain also refers to a legal proceeding in which a government asserts its authority to condemn property, while inverse condemnation is a shorthand description of the manner in which a landowner recovers just compensation for a taking of his or her property when condemnation proceedings have not been instituted.[14] An inverse condemnation action is initiated by the property owner, rather than the governmental entity.[15]

Eminent domain is subject to constitutional prohibitions found in both the federal and state constitutions.[16] The U.S. Constitution requires that property cannot be taken for public use without just compensation.[17] Section 6, Art. X of the Florida Constitution reads:

> (a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.
> (b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.
> (c) Private property taken by eminent domain pursuant to a petition to initiate condemnation proceedings filed on or after January 2, 2007, may not be conveyed to a natural person or private entity except as provided by general law passed by a three-fifths vote of the membership of each house of the Legislature.

The "full compensation" mandated by the state constitution is restricted to the value of the condemned land,[18] the value of associated appurtenances and improvements, and damages to the remaining land,[19] i.e., severance damages.[20] Florida's law governing eminent domain can be found in chapters 73 and 74 of the Florida Statutes. Except as limited or prohibited by constitutional provisions,[21] there can be no taking of private property for public use against the will of the owner without direct authority from the legislature.[22]

Statutory Eminent Domain Procedures

The statutory eminent domain procedures in ch. 73, F.S., include presuit negotiations between a governmental entity exercising its rights and the land owner,[23] offers of judgment,[24] jury trials,[25] compensation,[26] business damage offers,[27] and costs and attorneys' fees related to the proceeding.[28]

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[13] *See* 21 Fla. Jur. 2d Eminent Domain § 1, and references therein.
[14] *See* Agins v. City of Tiburon, 447 U.S. 255, 100 S.Ct. 2138, 65 L.Ed. 2d 106 (1980).
[15] *See supra* at FN 1.
[16] *See* U.S. Const. Amend. XIV; Art. I, § 9, Fla. Const.
[17] *See* U.S. Const. Amend. V; *by and through* U.S. Const. Amend. XIV.
[18] *See* United States v. Miller, 317 U.S. 369, 63 S.Ct. 276, 87 L.Ed. 336 (1943)("An owner of lands sought to be condemned is entitled to their 'market value fairly determined'"); *see also* United States ex rel. TVA v. Powelson, 319 U.S. 266, 275, 63 S.Ct. 1047, 87, L. Ed. 1390 (1943)("...the value may be determined in light of the special or higher use of the land.").
[19] *See, e.g.,* State Road Dep't. v. Bramlett, 189 So.2d 481, 484 (Fla. 1966).
[20] *See* Black's Law Dictionary 419 (8th ed. 2004)("*severance damages*. In a condemnation case, damages awarded to a property owner for diminution in the fair market value of land as a result of severance from the land of the property actually condemned; compensation awarded to a landowner for the loss in value of the tract that remains after a partial taking of the land.")
[21] *Id.*
[22] *See* Marvin v. Housing Authority of Jacksonville, 183 So. 145 (Fla. 1938); *see also* City of Ocala v. Nye, 608 So.2d 15 (Fla. 1992)(*citing* Peavy-Wilson Lumber Co. v. Brevard County, 31 So.2d 483 (1947)).
[23] S. 73.015, F.S.
[24] S. 73.032, F.S.
[25] S. 73.071, F.S.
[26] *Id.*
[27] *Id.*

Eminent domain actions proceeding to trial require a jury of 12 persons in the circuit court of the county where the property lies.[29] Eminent domain procedures take precedence over all other civil matters.[30]

Supplementary procedures for eminent domain actions in ch. 74, F.S., are commonly referred to as "quick-take" provisions. Under the quick-take provisions, certain entities, including municipalities and public utilities, may take possession of land subject to an eminent domain proceeding in advance of the entry of final judgment.[31] Eminent domain procedures, especially quick-take procedures, offer certain advantages. For the property owner, the only issue in dispute is the amount of compensation for the property taken. Under quick-take, a governmental entity is required to deposit, with the court, an amount not less than the petitioner's estimate of value and, in some circumstances, twice the estimated value of the property, until the amount of compensation is determined by the final judgment.[32]

Effect of Proposed Changes

The bill repeals s. 388.191, F.S., as duplicative and unnecessary. Since 1959, when the statute was enacted, state and federal case law regarding eminent domain powers of the government have significantly evolved. MCD boards are political subdivisions,[33] created by statute, with eminent domain powers. [34]

According to the Department of Agriculture and Consumer Services, the eminent domain power has not been used in recent memory, and would likely be unpopular if it were exerted by a mosquito control district.[35] Recent land issues have been resolved through the purchase of land by the mosquito control district.[36] In addition, s. 388.181, F.S., provides that MCDs are "...fully authorized to do and perform all things necessary to carry out the intent and purposes of this law." This statutory language would include the authority to exercise eminent domain power pursuant to chapter 73, F.S. As a result, s. 388.191, F.S., is duplicative and extraneous.

B. SECTION DIRECTORY:

Section 1: Repeals s. 388.191, F.S., relating to power of eminent domain.
Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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[28] SS. 73.091, F.S. and 73.092, F.S.
[29] *See supra* at FN 7.
[30] S. 73.071(1), F.S.
[31] S. 74.011, F.S.
[32] S. 74.051(2), F.S.
[33] S. 1.01(8), F.S., states "...'political subdivision' include[s] counties, cities, towns, villages, special tax districts, special road and bridge districts, bridge districts, and **all other districts in this state**." (emphasis added).
[34] S. 73.013(1), F.S.
[35] Florida Department of Agriculture and Consumer Services Analysis of PCB 11-07, later HB 7245, dated April 18, 2011, on file with the Health and Human Services Quality Subcommittee.
[36] *Id.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to mosquito control districts; repealing s. 388.191, F.S., relating to certain powers of the board of county commissioners to hold, control, acquire, or purchase real or personal property, condemn land or easements, exercise the right of eminent domain, and institute and maintain condemnation proceedings for a mosquito control district; providing an effective date.

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

Section 1. Section 388.191, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4105 Agency for Health Care Administration
SPONSOR(S): Nuñez
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The bill repeals the requirement in s. 402.81, F.S., that the Agency for Health Care Administration (AHCA) annually report to the Legislature on the Pharmaceutical Expense Assistance Program.

The bill reduces the workload of AHCA staff and has no fiscal impact on state or local government.

Provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Pharmaceutical Expense Assistance Program

In 2006, Florida established the Pharmaceutical Expense Assistance Program (PEAP) to assist individuals diagnosed with cancer or who have received organ transplants and were medically needy prior to January 1, 2006 with prescription costs.[1] Subject to an appropriation and availability of funds, the program requires the Agency for Health Care Administration (AHCA) to pay the Medicare Part B prescription drug coinsurance and deductibles for the medication required by these individuals.[2] S. 402.81, F.S., provides that PEAP is not an entitlement program and a waiting list may be developed. AHCA is required to report annually to the Legislature regarding the operation of PEAP, including number of individuals served, use rates, and program expenditures.[3]

As of January 1, 2006, 652 individuals were eligible for the program.[4] However, during Fiscal Year (FY) 2006-2007 only 61 individuals enrolled in PEAP.[5] Utilization rates have varied in recent years and PEAP has experienced a reduction in utilization each year since FY 2008-2009.[6]

PEAP 2006-2011[7]

Fiscal Year	Expenditures	Recipients
FY 2006-2007	$56,031.33	61
FY 2007-2008	$37,430.03	84
FY 2008-2009	$129,703.73	134
FY 2009-2010	$93,244.58	73
FY 2010-2011	$47,169.60	63

Utilization is expected to continue to decrease, since no additional individuals can become eligible for the program after January 2006.[8] Currently, less than 100 individuals utilize PEAP and the Legislature appropriated $50,000 for the program in FY 2011-2012.[9]

Effects of Proposed Changes

The bill repeals the requirement in s. 402.81, F.S., that AHCA annually report to the Legislature on PEAP. The repeal of this requirement will not affect current operations of PEAP, nor will it have any fiscal impact.[10] The changes will eliminate a portion of the workload by AHCA.[11] Although a report will no longer be required, the data in the report can be provided by AHCA upon request.[12]

B. SECTION DIRECTORY:

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[1] S. 20, ch. 2006-28 L.O.F.; s. 409.9301, F.S. (later renumbered as s. 25, ch. 2011-135, L.O.F.; s. 402.81, F.S.).
[2] S. 402.81, F.S.
[3] *Id.*
[4] Agency for Health Care Administration, 2010 Pharmaceutical Expense Assistance Program Report, January 19, 2010.
[5] AHCA e-mail correspondence, November 29, 2011; on file with Subcommittee Staff.
[6] *Id.*
[7] *Id.*
[8] Agency for Health Care Administration, 2012 Bill Analysis and Economic Impact Statement, House Bill 4105 (November 23, 2011).
[9] *Id.*; and *Supra.*, at note 5.
[10] *Supra.*, at note 7.
[11] *Id.*
[12] *Id.*

Section 1. Repeals s. 402.81(4)(b), F.S., relating to annual reports regarding operations of the Pharmaceutical Expense Assistance Program.

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:

The bill reduces the workload required by the AHCA and has no fiscal impact.[13]

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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[13] *Supra.*, at note 7.

A bill to be entitled

An act relating to the Agency for Health Care Administration; amending s. 402.81, F.S.; deleting the requirement that the agency submit a report to the Legislature relating to pharmaceutical expense assistance; providing an effective date.

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

Section 1. Subsection (4) of section 402.81, Florida Statutes, is amended to read:

402.81 Pharmaceutical expense assistance.—

(4) ADMINISTRATION.—The pharmaceutical expense assistance program shall be administered by the agency, in collaboration with the Department of Elderly Affairs and the Department of Children and Family Services.

~~(a)~~ The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this section.

~~(b) By January 1 of each year, the agency shall report to the Legislature on the operation of the program. The report shall include information on the number of individuals served, use rates, and expenditures under the program.~~

Section 2. This act shall take effect July 1, 2012.