



Health Care Appropriations Subcommittee

January 20, 2016
12:00 PM – 2:00 PM
Webster Hall (212 Knott)

Meeting Packet



The Florida House of Representatives

Appropriations Committee

Health Care Appropriations Subcommittee

Steve Crisafulli
Speaker

Matt Hudson
Chair

January 20, 2016

AGENDA
12:00 PM – 2:00 PM
Webster Hall

- I. Call to Order/Roll Call
- II. HB 1061—Nurse Licensure Compact by Pigman
- III. HB 1083—Agency for Persons with Disabilities by Renner
- IV. Update on Data Analytics Initiatives by Eric Miller, AHCA Inspector General
- V. Update on Data Analytics Initiatives by Janice Thomas, Assistant Secretary for Child Welfare
- VI. Presentation on the Resource Center Model to Prevent Child Abuse by Jenn Petion, M.A., APR, Director of Community and Government Relations, Partnership for Strong Families'
- VII. Closing/Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1061 Nurse Licensure Compact
SPONSOR(S): Pigman
TIED BILLS: HB 1063 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Affordable Healthcare Access	12 Y, 0 N	Siples	Calamas
2) Health Care Appropriations Subcommittee		Garner 	Pridgeon 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Nurse Licensure Compact (NLC or compact) is a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. In 2015, the National Council of State Boards of Nursing adopted revised model legislation for the NLC and required any state entering the NLC to adopt the revised model legislation. The bill authorizes Florida to enter into the revised NLC.

Under the NLC, a nurse who is issued a multistate license from a state that is a party to the compact is permitted to practice in any other state that is also a party to the compact. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

Pursuant to the bill, a nurse who applies for or renews a multistate license in Florida must meet the minimum requirements of the NLC and any other requirements set by the Florida Board of Nursing (board) within the Department of Health (DOH). The NLC does not change the current licensure requirements under ch. 464, F.S., the Nurse Practice Act.

Under the NLC, a state may take adverse action against the multistate licensure privilege of any nurse practicing in that state. The home state has the exclusive authority to take adverse action against the home state license, including revocation and suspension. The NLC requires all states to report to a coordinated licensure information system (CLIS), all adverse actions taken against a nurse's license or multistate licensure practice privilege, any current significant investigative information, and denials of applications. All party states may access the CLIS to see licensure and disciplinary information for all nurses licensed in the party states. A state may designate the information it contributes to the CLIS as confidential, prohibiting disclosure to nonparty states.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators (commission) to oversee the operation of the NLC. Each party state's compact administrator (the head of the state's licensing board or designee) must participate as a member of the commission. The NLC grants the commission authority to promulgate uniform rules to, among other things, facilitate and coordinate the implementation and administration of the NLC. The commission may also take any necessary action to secure the compliance of a party state that fails to meet the obligations of the NLC, including termination of membership after exhausting all means of securing compliance.

The NLC provides for the qualified immunity, defense, and indemnification of the administrators, officers, executive director, representatives, and employees of the commission in civil actions that arise under certain circumstances. The NLC does not abrogate or waive the sovereign immunity of its party states.

The bill also requires the DOH to conspicuously designate each nurse license as a multistate license or a single-state license. The bill requires the Florida Center for Nursing to analyze the impact of the state's participation in the NLC and authorizes the center to request certain information held by the board to determine such impact.

The bill has an indeterminate fiscal impact on the DOH and no fiscal impact on local government. The agency's current resources can adequately absorb any additional workload that may occur.

The bill takes effect on December 31, 2018, or upon enactment of the revised NLC into law by 26 other states, whichever occurs first.

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

STORAGE NAME: h1061b.HCAS.DOCX

DATE: 1/12/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Health Care Professional Shortage

There is currently a health care provider shortage in the U.S.¹ This shortage is predicted to continue into the foreseeable future and will likely worsen with the aging and growth of the U.S. population² and the passage of the Patient Protection and Affordable Care Act.³ Aging populations create a disproportionately higher health care demand.⁴ Additionally, as more individuals qualify for health care benefits, there will necessarily be a greater demand for more health care professionals to provide these services.

According to a 2010 report prepared by the Florida Center for Nursing, Florida was projected to experience a shortage of more than 62,800 nurses by 2025.⁵ In an effort to increase the number of students enrolled in nursing programs and address the projected shortage, the Legislature streamlined the process used by the board to approve and monitor nursing education programs.⁶ As a result, the number of nursing education programs in this state has increase by 114%.⁷ Due to the new capacity, overall student enrollment grew and the number of students graduating increased from 2012-2013-2013-2014.⁸

With an increasing number of new graduates who will enter the workforce, the long term shortage of nurses appears to be decreasing. It is projected that Florida will have a small surplus of RNs and LPNs in 2025.⁹ The South, in general, is projected to continue to have a shortage of nurses. However, this

¹ For example, as of November 14, 2013, the U.S. Department of Health and Human Services has designated 6,100 Primary Care Health Professional Shortage Area (HPSA) (requiring 8,200 additional primary care physicians to eliminate the shortage), 4,900 Dental HPSAs (requiring 7,300 additional dentists to eliminate the shortage), and 4,000 Mental Health HPSAs (requiring 2,800 additional psychiatrists to eliminate the shortage). U.S. Department of Health and Human Services, Health Resources and Services Administration, available at <http://www.hrsa.gov/shortage/> (last visited January 4, 2016).

² According to the U.S. Census Bureau, the U.S population is expected to increase by almost 100 million between 2014 and 2060, and by 2030, one in five Americans is projected to be 65 and over. Sandra L. Colby & Jennifer M. Ortman, U.S. Census Bureau, *Projections of the Size and Composition of the U.S. Population: 2014 to 2060* (March 2015), available at <http://webcache.googleusercontent.com/search?q=cache:N9N3mfOmlzYJ:https://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf+&cd=1&hl=en&ct=clnk&gl=us> (last visited January 4, 2016).

³ *Department of Health and Human Services Strategic Plan: Goal 1: Strengthen Health Care*, U.S. Department of Health and Human Services, available at <http://www.hhs.gov/secretary/about/goal5.html> (last visited on January 4, 2016).

⁴ One analysis measured current primary care utilization (office visits) and projected the impact of population increases, aging, and insured status changes. The study found that the total number of office visits to primary care physicians will increase from 462 million in 2008 to 565 million in 2025, and (because of aging) the average number of visits will increase from 1.60 to 1.66. The study concluded that the U.S. will require 51,880 additional primary care physicians by 2025. Petterson, Stephen M., et al., "Projecting U.S. Primary Care Physician Workforce Needs: 2010-2025", *Annals of Family Medicine*, vol. 10, No. 6 (November/December 2012), available at <http://www.annfam.org/content/10/6/503.full.pdf+html> (last visited on January 4, 2016).

⁵ Florida Center for Nursing, *RN and LPN Supply and Demand Forecasts, 2010-2025: Florida's Projected Nursing Shortage in View of the Recession and Healthcare Reform* (Oct. 2010), available at <https://www.flcenterfornursing.org/ForecastsStrategies/FCNForecasts.aspx> (last visited January 4, 2016).

⁶ Chapter 2009-168, Laws of Fla. Additional statutory amendments were made pursuant to chs. 2010-37 and 2014-92, Laws of Fla.

⁷ OPPAGA, *Florida's Nursing Education Programs Continue to Expand in 2014*, Report No. 15-04 (Jan. 2015, rev. Aug. 2015), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=15-04> (last visited January 4, 2016).

⁸ *Id.*

⁹ U.S. Dep't of Health and Human Services, Health Resources and Services Administration, Bureau of Health Workforce, National Center for Health Workforce Analysis, *The Future of the Nursing Workforce: National- and State-Level Projections, 2012-2025*, (December 2014), available at <http://bhpr.hrsa.gov/healthworkforce/supplydemand/nursing/workforceprojections/> (last visited January 4, 2016).

may not be an accurate reflection of the need for nurses because the rapidly changing healthcare delivery system is redefining the role of the nursing workforce.¹⁰

Currently, Florida healthcare providers rely on temporary nurses when sufficient nursing staff is not available to meet the demand or there is a temporary need for specialty nursing.¹¹ Due to its popularity as a tourist destination, Florida experiences a cyclical need for additional nursing resources in winter months. For example, a temporary nursing agency has indicated that in November the request for temporary nurses increases by more than 200 percent for nurses to work the winter months.¹²

Nurse Licensure in Florida

The Nurse Practice Act, chapter 464, F.S., governs the licensure and regulation of nurses in Florida. The Department of Health (DOH) is the licensing agency and the Board of Nursing (BON or board) is the regulatory authority. The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate.¹³

Applicants may apply to the DOH to be licensed as a registered nurse (RN) or a licensed practical nurse (LPN). An RN is licensed to practice “professional nursing,” and an LPN is licensed to practice “practical nursing.”¹⁴ Florida provides two paths to licensure – licensure by examination and licensure by endorsement. There are currently 253,338 RNs and 73,942 LPNs actively licensed to practice in the state.¹⁵

To be licensed by examination, an individual must:

- Submit an application with the appropriate fee;
- Satisfactorily complete a criminal background screening;
- Demonstrate English competency;
- Successfully complete an approved nursing educational program; and
- Pass a licensure exam.¹⁶

Licensure by endorsement is the process by which a nurse validly licensed in another state may be licensed in Florida without having to sit for an examination. To be licensed by endorsement, a nurse must:

- Submit an application with the appropriate application fee;

¹⁰ *Id.*

¹¹ Presentation by Lori Scheidt, Vice-Chair, Nurse Licensure Compact Administrators, before the House of Representative Select Committee on Affordable Healthcare Access in Tallahassee, Florida (Dec. 1, 2015), *available at* <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2883&Session=2016&DocumentType=Meeting%20Packets&FileName=scaha%2012-1-15.pdf> (last visited January 4, 2016).

¹² Telephone call with Dwight Cooper, Co-Founder and Chief Executive Officer of PPR Healthcare Staffing on December 21, 2015. Mr. Cooper indicated that in November 2015, his company received approximately 1700 requests for immediate placement of temporary nurses to work the winter months; however, during non-winter months, placement requests average between 300 and 400. Mr. Cooper cautions that healthcare facilities generally requests temporary nurses once they have reached critical status and have redeployed local nursing staff as efficiently as possible, due to the expense associated with the use of temporary nurses.

¹³ Section 464.004(1), F.S.

¹⁴ Section 464.003(20), F.S., defines the “practice of professional nursing” as the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principals of psychological, biological, physical, and social sciences. Section 464.003(19), F.S., defines the “practice of practical nursing” as the performance of selected acts, including the administration of treatments and medications, under the direction of a registered nurse, licensed physician, or a licensed dentist, and is responsible and accountable for making decision that are based upon the individual’s educational preparation and experience in nursing.

¹⁵ E-mail with staff of the DOH (on file with the Health Quality Subcommittee).

¹⁶ Section 464.008, F.S. For its licensure examination, the DOH uses the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.

- Hold a valid license in another state or territory of the U.S., provided that the licensure of such state or territory has licensure requirements that are substantially equivalent to or more stringent than those in Florida;
- Meet the qualifications for licensure by examination;
- Successfully pass a licensure exam that is substantially equivalent to or more stringent than the exam required by Florida;
- Have practiced in another state or territory of the U.S., for two of the proceeding three years without having any action taken against his or her license; and
- Satisfactorily complete a criminal background screening.¹⁷

Licenses are renewed biennially.¹⁸ Each renewal period, an RN or LPN must document completion of one contact hour of continuing education for each calendar month of the licensure cycle.¹⁹ As a part of the total continuing education hours required, all licensees must complete a two-hour course on the prevention of medical errors and a two-hour course in Florida laws and rules.²⁰ Effective August 1, 2017, all licensees must also complete a two-hour course in recognizing impairment in the workplace.²¹

Interstate Compacts

An interstate compact is an agreement between two or more states to address common problems or issues, create an independent, multistate governmental authority, or establish uniform guidelines, standards or procedures for the compact's member states.²² Article 1, Section 10, Clause 3 (Compact Clause) of the U.S. Constitution authorizes states to enter into agreements with each other, without the consent of Congress. However, the case law has provided that not all interstate agreements are subject to congressional approval, but only those that may encroach on the federal government's power.²³ Florida is a party to 25 interstate compacts, including the Driver's License Compact, Compact on Adoption and Medical Assistance, and the Interstate Compact on Educational Opportunity for Military Children.²⁴

Nurse Licensure Compact

In 2000, the National Council of State Boards of Nursing (NCSBN) established model legislation for the Nurse Licensure Compact (NLC), which allows a nurse to have one license, issued by the primary state of licensure, with the privilege to practice in other compact states. The NLC applies to registered nurses (RNs) and licensed practical or vocational nurses (LPN/LVN).²⁵ In 2015, the NCSBN revised the model legislation for the NLC to address concerns related to uniform licensure requirements, governance, and rule-making.²⁶

¹⁷ Section 446.009, F.S. For spouses of active duty military personnel who relocate to Florida pursuant to official military orders, the spouse is deemed to meet the requirements of licensure by endorsement if he or she is licensed by a state that is a member of the Nurse Licensure Compact, and will be issued a license upon submission of an application for licensure with the appropriate fee and satisfactory completion of the required criminal background screening.

¹⁸ Section 464.013, F.S.

¹⁹ Rule 64B9-5.002, F.A.C. A course in HIV/AIDS is required in the first biennium only and a domestic violence course is required every third biennium.

²⁰ Rule 64B9-5.011, F.A.C.

²¹ *Supra* note 18 and Rule 64B9-5.014, F.A.C.

²² Council of State Governments, Capitol Research, *Special Edition – Interstate Compacts*, available at <http://knowledgecenter.csg.org/kc/content/interstate-compacts-background-and-history> (last visited January 4, 2016).

²³ For example, see *Virginia v. Tennessee*, 148 U.S. 503 (1893), *New Hampshire v. Maine*, 426 U.S. 363 (1976)

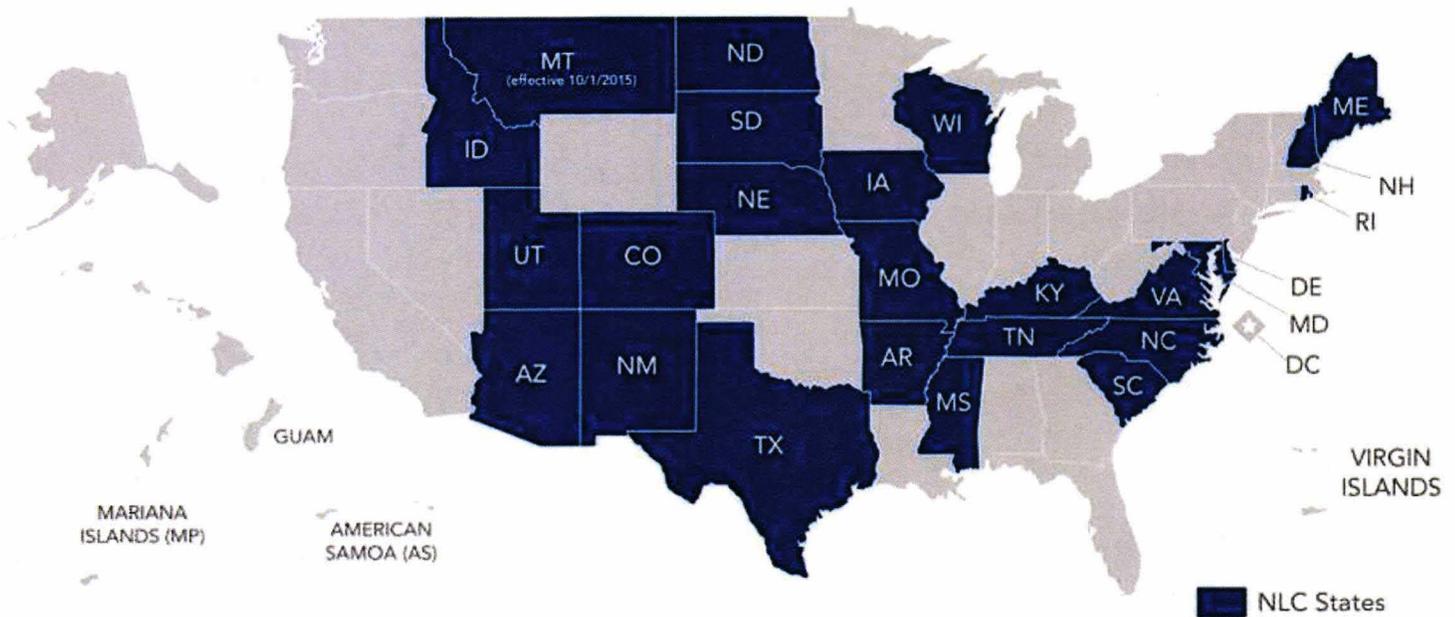
²⁴ OPPAGA, *2015 Nurse Licensure Compact Revisions Address Some Barriers and Disadvantages in 2006 OPPAGA Report*, available at floridasnursing.gov/forms/2015-oppaga-research-memo.pdf (last visited January 4, 2016).

²⁵ Another NCSBN licensure compact, the Advanced Practice Registered Nurse Compact, is a multi-state agreement that establishes a mutual recognition system for the licensure of advanced practice registered nurses (APRNs). Florida is not eligible to enter the Advanced Practice Nurse Compact because that compact requires APRNs to be able to provide patient care independent of a supervisory or collaborative relationship with a physician and Florida law requires such nurses to be supervised under a physician protocol. The APRN Compact is available at <https://www.ncsbn.org/aprn-compact.htm> (last visited January 4, 2016), and Florida's current supervision requirement for APRNs is in s. 464.012(3), F.S.

²⁶ The revised model legislation may be found at <https://www.ncsbn.org/95.htm> (last visited January 4, 2016).

The NLC was modeled after the Driver's License Compact, which permits a person holding a license in one state to drive in other states without applying for a driver's license in each state through which he or she may drive.²⁷ The NLC uses the same system of mutual recognition, which allows a nurse holding a multistate license to practice in any other party state.

Since its initial inception, the original NLC has been adopted by 25 states. According to the NCSBN, an additional five states have NLC legislation pending.²⁸ States that adopted the prior NLC must adopt the revised NLC to become members of the new compact. Those states that are members of the original compact are indicated in the map below.²⁹



To join the NLC, a state must pass the NLC model legislation, the state board of nursing must implement the compact, and the state licensing agency must pay an annual fee of \$6,000.³⁰

The model language of the NLC provides the framework under which party states must operate. The model language must be adopted in its entirety and any modifications must be approved by the NCSBN.³¹ The compact is arranged in 11 articles and addresses the following issues:

Findings and Purpose (Article I)

The primary purpose of the NLC is to facilitate the cross-state practice of nursing by promoting compliance with the practice laws of each party state, facilitating the exchange of information between party states, and ensuring and encouraging the cooperation of party states³² in the licensure and regulation of nurses.

²⁷ NCSBN, *Nurse Licensure Compact: What Policymakers Need to Know*, available at <https://www.ncsbn.org/6183.htm> (last visited January 4, 2016).

²⁸ NCSBN, *Pending Legislation*, available at <https://www.ncsbn.org/96.htm> (last visited January 4, 2016). The states with pending NLC Legislation in 2015 included Illinois, Massachusetts, Minnesota, New York, and Oklahoma.

²⁹ NCSBN, *NLC Member States (Download Map)*, available at <https://www.ncsbn.org/nurse-licensure-compact.htm> (last visited January 4, 2016).

³⁰ NCSBN, *Pending Legislation*, available at <https://www.ncsbn.org/96.htm> (last visited January 4, 2016).

³¹ See generally NCSBN, *Charter Documents*, available at <https://www.ncsbn.org/95.htm> (last visited January 4, 2016).

³² A party state is a state that has adopted the NLC.

Definitions (Article II)

The NLC provides definitions for terms used in the model legislation.

General Provisions and Jurisdiction (Article III)

Under the NLC, an applicant for a license to practice as an RN or LPN/LVN has to apply in his or her home state for a multistate license.³³ The home state is the applicant's primary state of residence.³⁴

The NLC's uniform licensing standards require an applicant for a multistate license to:

- Undergo a criminal history records investigation which includes the submission of fingerprints or other biometric-based information for the purpose of obtaining criminal history records from the Federal Bureau of Investigations and the state agency responsible for retaining criminal records;
- Graduate or be eligible to graduate from a board approved RN or LPN/LVN educational program or an educational program approved by an authorized accrediting body in the applicable country and verified by a board approved independent credentials review agency as a comparable educational program;
- For a graduate of a foreign educational program, successfully pass an English proficiency examination that includes reading, speaking, listening, and writing;
- Successfully complete the NCLEX-RN® or NCLEX-PN® Exam or recognized predecessor;
- Possess or be eligible for an active, unencumbered license;
- Not have been convicted or found guilty, or entered into an agreed disposition of a felony offense;
- Not have been convicted or found guilty, or entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
- Not be currently enrolled in an alternative program or nondisciplinary monitoring program approved by the state board of nursing;
- Be subject to self-disclosure requirements regarding the current participation in an alternative program; and
- Have a valid social security number.

A nurse practicing in a party state under the multistate licensure privilege subjects himself or herself to the practice laws of that state, as well as the jurisdiction of that state's licensing board, courts, and other laws. The NLC vests with each party state the authority to take adverse action³⁵ against a multistate licensure privilege³⁶ in accordance with the state's due process laws. Adverse actions may include cease and desist orders or any other action that affects the nurse's ability to practice under a multistate licensure privilege. Upon taking adverse action against a multistate licensure privilege, the party state taking the adverse action must promptly notify the administrator of the coordinated licensure information system.³⁷ The administrator of the system will notify the home state of any adverse actions taken by a remote state.³⁸

³³ A multistate license is a license to practice as an RN or LPN/LVN issued by a home state licensing board that authorizes the license holder to practice in all party states under a multistate licensure privilege.

³⁴ Pursuant to the model rules developed under the prior NLC, a nurse's home state may be evidenced by a driver's license with a home address, voter registration card with a home address, federal income tax return, military documentation of state of legal residence, or a W2 from the U.S. government or any bureau, division, or agency thereof. See Nurse Licensure Compact Administrators, *Nurse Licensure Compact Model Rules and Regulations*, (Rev. Nov. 13, 2012, Aug. 4, 2008, Sept. 16, 2004), available at https://www.ncsbn.org/NLC_Model_Rules.pdf (last visited January 4, 2016).

³⁵ Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse.

³⁶ Multistate licensing privilege refers to the legal authorization associated with a multistate license permitting the practice of nursing as either an RN or LPN/LVN in a remote state or party state other than the nurse's home state.

³⁷ The coordinated licensure information system is an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that are administered by a nonprofit organization composed of and controlled by licensing boards. Currently, the NCSBN operates the Nursys® system, which is a national database for verification of

A party state may also issue single-state licenses for those individuals that meet the party state's requirements for a single-state license. The NLC does not govern the requirements for a single-state license issued by a party state or a single-state license issued by a nonparty state. A single-state license does not authorize the holder to practice nursing in any other state but the state of issuance.

The revised NLC grandfathers those licenses issued under the prior NLC. However, if a nurse changes home states after the effective date of the revised NLC, the nurse must meet all the uniform licensure requirements of the revised NLC. If a nurse fails to satisfy the uniform licensure requirements due to a disqualifying event occurring after the effective date of the NLC, the nurse will be ineligible to retain or renew his or her multistate license.

Applications for Licensure in a Party State (Article IV)

In reviewing an application for licensure, the licensing board of each party state must:

- Determine if the applicant currently holds or has ever held a license issued by any other state;
- Determine if there is any encumbrance on any single-state or multistate license;³⁹
- Determine if any adverse action has been taken against any license;
- Determine whether the applicant is currently participating in an alternative program;⁴⁰ and
- Verify licensure information through the coordinated licensure information system.

A nurse may hold only one multistate license, which is issued by his or her home state. If a nurse changes his or her primary state of residence, the nurse must apply for licensure in the new home state and meet that state's licensure requirements.⁴¹ Prior to issuing a multistate license under the NLC, the applicant must submit a Declaration of Primary State of Residence Form and any other documentation required by the licensing board to satisfactorily establish the change in the primary state of residence.⁴² The multistate license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators. If a nurse moves his or her primary state of residence from a party state to a non-party state, the multistate license issued in the previous home state will convert to a single-state license, valid only in that state.

Additional Authority of the Party State Licensing Boards (Article V)

A state licensing board or state agency has the authority to:

- Take adverse action against a nurse's multistate licensure privilege to practice within that party state, but only a nurse's home state has the power to take action against the nurse's license issued in the home state.⁴³
- Issue cease and desist orders or impose an encumbrance to practice within that party state.

nurse licensure, discipline and practice privileges for RNs and LPN/LVNs licensed in participating boards of nursing, including all the states in the NLC. See <https://www.nursys.com/About.aspx> (last visited January 4, 2016).

³⁸ A remote state is a party state, other than the home state.

³⁹ An encumbrance is any revocation, suspension, or limitation on the full and unrestricted practice of nursing imposed by a licensing board.

⁴⁰ An alternative program is a non-disciplinary monitoring program approved by a licensing board.

⁴¹ The nurse may apply for licensure in advance of the change of his or her primary state of residence.

⁴² See NCSBN, *Nurse Licensure Compact Frequently Asked Questions*, available at <https://www.ncsbn.org/94.htm> (last visited January 4, 2016). Currently, each party state has its own Declaration of Primary State of Residence Form. For examples, see Texas' form, available at https://www.bon.texas.gov/forms_primary_state_of_residence_sworn_declaration.asp; New Mexico's form, available at <http://nmbon.sks.com/primary-state-of-residence-declaration.aspx>; Maryland's form, available at <http://mbon.maryland.gov/Pages/msl-index.aspx>; et al. (last visited each website on January 4, 2016).

⁴³ The home state must give the same priority and effect to conduct reported from a remote state as it would to conduct that occurred within the home state. The home state applies its own state laws to determine appropriate conduct. For example, if the nurse committed an offense in a remote state that would result in an emergency suspension of his or her license had it been committed in the home state, the home state should treat the offense as if it occurred in its state and suspend the license.

- Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. The licensing board is authorized to taken any appropriate action and must promptly report the findings of such investigations to the administrator of the coordinated licensure information system. The administrator will promptly report such actions to the new home state.
- Issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Party states will enforce, by a court of competent jurisdiction, such subpoenas issued by other party states. The party state issuing the subpoena must pay any fees or costs required by the service statutes of the state in which the witness or evidence is located.
- Obtain and submit fingerprints or other biometric information for federal and state criminal background checks and use the results to make licensure decisions.
- If permitted by state law, the licensing board may recover the costs of investigations and disposition of cases resulting from any adverse action taken against a license.
- Take adverse action based on the factual findings of a remote state.

If adverse action is taken by a home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice is deactivated until all encumbrances of his or her multistate license has been removed. In any disciplinary order issued by a home state that imposes adverse actions, a statement that the nurse's multistate licensure privilege has been deactivated must be included. If, in lieu of adverse action, a home state allows the nurse to participate in an alternative program, the multistate licensure privilege must be deactivated for the duration of such program.

Coordinated Licensure Information System and Exchange Information (Article VI)

All party states must participate in the coordinated licensure information system, which includes information on the licensure and disciplinary history of each nurse. Any adverse action, current significant investigative information, licensure denials and reason for denial, and nurse participation in alternative programs known to the licensure board, whether such participation is deemed nonpublic or confidential under state law, must be reported to the coordinated licensure information system. Although nonparty states may have access to licensure and disciplinary information in the coordinated licensure information system, information regarding current significant investigations and participation in nonpublic or confidential alternative programs is only available to the licensure boards of party states.

A party state may indicate that information it has submitted may not be shared with non-party states or other entities without express permission of that state. A party state may not share information obtained from the system that includes personally identifiable information except to the extent allowed by the laws of the party state contributing the information. Information on the system must be expunged in accordance with the laws of the contributing state.

The compact administrator of each state must submit a uniform data set to each party state, which includes:

- Identifying information;
- Licensure data;
- Information related to alternative program participation; and
- Other information that may facilitate the administration of the Compact, as determined by commission rules.

Upon request from another party state, a party state must provide all investigative documents and information.

Interstate Commission of Nurse Licensure Compact Administrators (Article VII)

The NLC creates the Interstate Commission of Nurse Licensure Compact Administrators (commission). The NLC contains a choice of forum provision that requires legal action to be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located, unless waived by the commission.⁴⁴

The head of the licensing board or his or her designee is designated as the compact administrator for each party state and is required to be a member of the commission. If a state removes or suspends a compact administrator from his or her office, such administrator's vacancy on the commission will be filled in accordance with the laws of the party state.

Each compact administrator is entitled to an equal vote on the promulgation of rules and the creation of bylaws, and is afforded the opportunity to participate in the business and affairs of the commission.

The commission is required to meet once a year; however, it may have additional meetings in accordance with the commission bylaws. All meetings are open to the public and publicly noticed. The notice must be posted on the commission's website and include the time, date, and location of the meeting and each party state must provide notice of the meeting on the licensing board's website or in accordance with its respective public notice requirements.

The NLC allows the commission to participate in closed, nonpublic meetings to discuss certain topics. Prior to a meeting being closed, legal counsel for the commission has to certify that the meeting may be closed for discussion involving the following topics:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with the NLC; or
- Matters specifically exempted from disclosure by federal or state law.

The commission must keep comprehensive minutes of matters discussed in its meetings and provide a full and accurate summary of actions taken, and the reasons therefor. Minutes of a closed meeting will be sealed; however, such minutes may be released pursuant to a majority vote of the commission or an order of a court of competent jurisdiction.

The NLC directs the commission to adopt and publish bylaws or rules to govern its conduct in carrying out the purposes and the exercise of its power under the compact, including bylaws or rules related to standards and procedures for recordkeeping, holding meetings, selecting officers, establishing personnel policies, and winding up the commission's operations.

The NLC vests the commission with the powers to:

- Promulgate rules to facilitate and coordinate implementation and administration of the compact;

⁴⁴ The principal office of the commission is located in Chicago, Illinois.

- Bring and prosecute legal proceedings or actions in the name of the commission; as long as a party state's standing to sue or be sued under applicable law is not affected;
- Purchase and maintain insurance and bonds;
- Borrow, accept, or contract for services or personnel;
- Cooperate with other organizations that administer state compacts related to the regulation of nursing;
- Hire employees, elect or appoint officers, fix compensation, define duties, and grant such individuals appropriate authority to carry out the purposes of the compact;
- Establish personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided the commission avoids any appearance of impropriety or conflict of interest;
- Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use any real, personal, or mixed property;
- Sell, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- Establish a budget and make expenditures;
- Pay its reasonable expenses;
- Levy, and collect an annual assessment from each state to cover the costs of operation, activities, and staff;
- Borrow money;
- Appoint committees;
- Provide and receive information from, and to cooperate with, law enforcement agencies;
- Adopt and use an official seal; and
- Perform any other lawful duties necessary or appropriate to achieve the purposes of the compact.

Pursuant to the NLC, the commission may not incur any financial obligation until it has secured adequate funds to meet such obligation. The commission may not pledge the credit of any party state, without the party state's explicit authority. The NLC requires the commission to maintain accurate fiscal records, which must be audited annually by a certified public accountant. The results of the audit must be included in the commission's annual report.

The NLC provides immunity to the administrators, executive director, employees, and representatives from suit and liability, either personally or in their official capacity, for claims arising out of their official duties and responsibilities, as long as the damage is not caused by intention, willful, or wanton misconduct. The NLC also provides that it will provide defense and indemnification in any such actions.

Nothing in the compact is to be construed as a waiver of sovereign immunity.

Rule-making (Article VIII)

The NLC provides rule-making authority to the commission. Rules and amendments to the rules passed by the commission are binding on the party states as of the effective date specified in each rule or amendment.

Prior to the promulgation and adoption of a rule, the commission must provide notice of the meeting at which the rule is to be considered and voted upon, at least 60 days in advance. The notice must be posted on the commission's website and the website of the licensing board of each member state and include:

- The time, date, and location of the meeting;
- The text of the proposed rule or amendment,

- The reason for the proposed rule or amendment;
- A request for comment from interested persons; and
- The manner in which interested persons may submit comments.

The commission must provide an opportunity for a public hearing before the adoption of a rule or an amendment, and provide sufficient notice of the time, place, and date of the hearing. Final action on proposed rules is taken by a majority vote of all administrators. The commission may make technical revisions, such as typographical or grammatical errors, without engaging in the rule-making process, by posting such revisions to the commission's website. Members of the public may challenge a revision on grounds that the revision results in a material change to a rule. The challenge must be in writing and delivered to the commission within 30 days of the notice of the technical revision being posted. If the revision is challenged, the revision may not take effect without approval of the commission.

The commission has the authority to consider and adopt emergency rules, without prior notice, if there is an imminent threat to public health, safety, or welfare; to prevent a loss of funds of the commission or a party state; or to meet a deadline for the promulgation of an administrative rule that is required by federal law. The standard rule-making procedure is to be applied retroactively as soon as possible but no later than 90 days after the effective date of the emergency rule.

Oversight, Dispute Resolution, and Enforcement (Article IX)

The commission is charged with enforcing the provisions and rules of the NLC. However, all party states are obligated to enforce the NLC and to take any necessary action to effectuate its purpose and intent. The commission is entitled to receive service of process relating to its powers, responsibilities, or actions, and may intervene in any proceeding affecting such.

If a party state defaults in the performance of its duties or responsibilities under the NLC, the commission will notify the defaulting state, as well as other party states, in writing of the nature of the default and proposed cure(s) of the default. The commission will also provide remedial training and technical assistance related to the default. If the defaulting state fails to cure the default, the commission may terminate its membership in the NLC, upon majority affirmative vote of the majority of the administrators. The commission must notify the governor and the head of the licensing board of the defaulting state, as well as all party states, of its intent to suspend or terminate the state's membership in the NLC. However, termination of membership is to only be imposed after all other means of compliance have been exhausted.

A termination of membership in the NLC may be appealed by petitioning the U.S. District Court for the District of Columbia or the federal district in which the commission's principal office is located. The commission's principal office is located in Chicago, Illinois. The commission may also bring an action in federal court against a defaulting state to enforce compliance with the provisions of the NLC. The commission may seek injunctive relief, damages, or any other remedies available under state or federal law. A prevailing party in either action is entitled to court costs and reasonable attorneys' fees.

In the event that a dispute arises between party states, the commission will attempt to resolve such disputes. The NLC directs the commission to promulgate a rule that provides for mediation and binding dispute resolution. If a dispute cannot be resolved by the commission, the NLC provides that the issue may be submitted to an arbitration panel, whose decision is final and binding.

Effective Date, Withdrawal and Amendment (Article X)

The NLC becomes effective and binding on the earlier of the date of legislative enactment by at least 26 states or December 31, 2018. The NLC provides a procedure for adopting the revised compact for states that were a party to the prior contract.

To withdraw from the NLC, a state must enact a statute repealing the NLC. Such withdrawal does not take effect until six months after the enactment of the repealing legislation. Any adverse actions or significant investigations that occur prior to the effective date of a withdrawal or termination must be reported as required under the NLC.

The NLC may be amended by the party states; however, an amendment will not be effective until it is enacted into the laws of all the party states. The NLC authorizes non-party states to be invited to participate in the activities of the commission, on a nonvoting basis.

Construction and Severability

The NLC is to be liberally construed to effectuate its purposes. The NLC contains a severability clause that provides that any provision that is found to be unconstitutional pursuant to a state constitution or the U.S. Constitution is severed and the other provisions of the compact remain valid. If the entire compact is found to be unconstitutional in a party state, the NLC remains in full force and effect for all other party states.

OPPAGA Review of the NLC

2006 OPPAGA Report

In 2006, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the possibility of Florida adopting the original NLC.⁴⁵ OPPAGA concluded that adopting the NLC would allow the state to alleviate short-term nursing shortages but would not resolve the state's long-term nursing shortage. The report identified several benefits that would be realized by adopting the NLC. Those benefits included:

- Access to NURSYS®, the coordinated licensure information system, would provide improved access to information regarding disciplinary action taken against a nurse's license and notification of a nurse under investigation for patient safety issues, including information that is only available to party states.
- As a party state, Florida would be able to influence interstate nursing policies as a member of the Nurse Licensure Compact Administrators.

Conversely, the report also identified several disadvantages to joining the compact at that time:

- Potentially, there could be an increase in disciplinary cases, both domestic and multistate, which could have a negative fiscal impact on the DOH.
- Florida's continuing education requirements would not apply to a nurse working in Florida but whose home state is not Florida.
- A nurse whose home state was not Florida may not be subject to a criminal background screening because some party states did not require criminal background screening for licensure.
- Public access to licensure and disciplinary action may be impaired.
- The DOH and BON will incur some initial start-up costs in implementing the NLC.

Additionally, OPPAGA identified barriers to implementing the original NLC legislation:

- The provisions of the original NLC language may conflict with Florida's public records and open meetings laws. The original NLC required states receiving information to honor the confidentiality restrictions of the state providing the information, and did not address notice requirements for open meetings.

⁴⁵ OPPAGA, *Nurse Licensure Compact Would Produce Some Benefits But Not Resolve the Nursing Shortage*, Report No. 06-02 (Jan. 2006), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=06-02> (last visited January 4, 2016).

- The original NLC provided general and broad authorization for the compact administrators to develop rules that were required to be adopted by party states, which raised concern about an unlawful delegation of legislative authority.
- The DOH and the BON would need to educate nurses and employers on the NLC and its requirements for the NLC to operate as intended.
- A compact nurse is not required to notify the BON when he or she enters the state to practice nursing, making it difficult for the workforce data to be captured. Additionally, the BON would not be on notice that a nurse under investigation in another state has entered Florida to work.

The report made several recommendations, including seeking approval to use alternative compact language to address the barriers identified in the report. Other recommendations including authorizing the BON to require employers to report employment data, providing a later effective date to allow for education of the public regarding the NLC, and requiring the BON to report information to the legislature on the effect of the NLC two years after its implementation.

2015 OPPAGA Memorandum

In 2015, the revised NLC was reviewed by OPPAGA to determine if it adequately addresses concerns identified in the 2006 report.⁴⁶ OPPAGA found that the revised NLC resolved some of the barriers and disadvantages listed above, and specifically it found:

- The revised NLC partially addresses the concerns regarding constitutional issues related to public meetings but did not address public records concerns.
 - Under the revised NLC, there are provisions requiring the commission to publicly notice meetings on its website, as well as the websites of party states. However, the commission is allowed to have closed door meetings to address certain issues. Such meetings may be deemed inconsistent with Florida's open meetings law.
 - A party state may still designate information it provides as confidential and restrict the sharing of such information. However, once the information is in the possession of the BON, it may be considered a public record under Florida law, available through the BON.
- The revised NLC addresses the issue of delegation of legislative authority, by limiting the scope of the rules the commission may adopt to only those rules that would facilitate and coordinate the implementation and administration of the NLC. OPPAGA suggests that the legislature include an expiration date, an automatic repeal provision, or a required review of the NLC to provide the legislature with an opportunity to review the rules adopted by the commission.
- The revised NLC does not become effective until it has been enacted by 26 states or December 31, 2018, whichever is earlier. This provides the state with the time needed to educate nurses and employers about the NLC.
- The revised NLC does not require employers of compact nurses who are practicing in a state under a multistate licensure privilege to report such employment to the state's board of nursing.
- Public access to nurse disciplinary information has improved due to the increased state participation in NURSYS®, the coordinated licensure information system.
- The revised NLC requires a criminal background screening for licensees. However, this requirement only applies to new multistate licensure applicants, and a nurse who currently holds a multistate license will not have to undergo a criminal background screening unless required by his or her home state.
- The NLC does not address continuing education requirements. Although most states require some continuing education, not all states do. Florida authorities would be unable to enforce continuing education requirements for those practicing in the state under the multistate licensing privilege.

⁴⁶ *Supra* fn. 24. See also OPPAGA, Presentation to the House Select Committee on Affordable Healthcare Access (December 1, 2015), available at <http://www.oppaga.state.fl.us/Presentations.aspx> (last visited January 4, 2016).

OPPAGA advises that the revised NLC does not affect the benefits it identified in its 2006 report. In addition to those benefits, it noted that as a member of the NLC, the processing time and resources required to process a licensure by endorsement would be reduced or eliminated. Florida would also be able to access investigative information earlier and would be able to open its own investigation if the nurse is practicing in this state.

Effect of Proposed Changes

Nurse Licensure Compact

The bill enacts the Nurse Licensure Compact in full (see description of compact provisions in the Current Situation section) and authorizes Florida to enter into the NLC with all other jurisdictions that have legally joined the NLC. The bill makes minor changes to the language of the NLC, including stylistic and grammatical changes and adding definitions for “commission” and “compact.” Some of the primary purposes of the NLC include addressing the expanded mobility of nurses and use of advanced communication technologies, such as telehealth. Furthermore, in Florida, the bill would expedite or eliminate the time it requires a military spouse who is a nurse to be able to practice here and address the demand for temporary nurses during seasonal increases in population caused by tourism.

The bill amends current law to allow NLC implementation. It authorizes the DOH to charge a fee to convert a single-state license to a multistate license. The bill exempts an individual who holds a multistate license from having to comply with the licensure by examination or licensure by endorsement requirements. The DOH must designate each nurse license it issues as either a single-state or multistate license.

The bill makes conforming changes to statute to reference the multistate license and the requirements under the NLC. The bill does not require changes to Florida’s licensure and license renewal requirements. However, an applicant that wishes to apply for a multistate license must meet the requirements of the NLC, in addition to the Florida licensure requirements.

Single-State Licenses

A party state may also issue single-state licenses for those individuals that meet the party state’s requirements for a single-state license. The NLC does not govern the requirements for a single-state license. A single-state-license does not authorize the holder to practice nursing in any other state but the state of issuance. Nonparty states will continue to issue single-state licenses.

Florida may issue a single-state license upon the request of an applicant or for individuals who do not qualify for a multistate license but otherwise qualify to be licensed in Florida. For example, the NLC does not allow an individual who has been convicted of a felony to be issued a multistate license. However, under Florida law, the Board will review the application of individuals with felony convictions on a case-by-case basis to determine eligibility for licensure. If the board deems that the applicant does not pose a threat to public safety, the board may issue only a single-state license.

The bill requires that all licenses must be conspicuously designated as either a single-state license or a multistate license.

The Florida Center for Nursing

The Florida Center for Nursing was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.⁴⁷ The bill requires the Florida Center for Nursing to include the impact of the state’s participation in the NLC in its supply and demand calculations and projections for the need for nurse

workforce resources. The Florida Center for Nursing is authorized to request any information held by the board regarding nurses licensed in this state, holding a multistate license, or any information reported by employers of such nurses, other than personally identifiable information.

Enactment Date

The bill provides an effective date of December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by twenty-six other states, whichever date occurs first in time.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 456.073, F.S., relating to disciplinary proceedings.
Section 2. Amends s. 456.076, F.S., relating to treatment programs for impaired practitioners.
Section 3. Amends s. 464.003, F.S., relating to definitions.
Section 4. Amends s. 464.004, F.S., relating to the Board of Nursing.
Section 5. Amends s. 464.008, F.S., relating to licensure by examination.
Section 6. Amends s. 464.009, F.S., relating to licensure by endorsement.
Section 7. Creates s. 464.0095, F.S., relating to the Nurse Licensure Compact.
Section 8. Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners.
Section 9. Amends s. 464.019, F.S., relating to titles and abbreviations.
Section 10. Amends s. 464.018, F.S., relating to disciplinary actions.
Section 11. Amends s. 464.0195, F.S., relating to the Florida Center for Nursing.
Section 12. Provides an effective date of December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by twenty-six other states, whichever date occurs first in time.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Due to the authorized fee for conversion of a single-state license to a multistate license, the DOH may realize an indeterminate, positive fiscal impact. The DOH has not yet determined the fee it will charge for conversion. The fee for initial licensure will not change.

The DOH may incur an indeterminate, negative fiscal impact due the loss of fees associated with licensure by endorsement and licensure renewal fees for those who are licensed in Florida but holds a multistate license from their home state. There are currently 16,351 nurses licensed in Florida who are also licensed in compact states.⁴⁸

2. Expenditures:

The DOH indicates that it may experience a recurring increase in workload due to the following requirements created under the provisions of the bill:

- Additional licensure applications for multistate licenses;
- Reporting requirements and a one-time modification of computer software for the coordinated licensure information system;
- Activities of the commission, such as travel for the compact administrator;
- Education of the public; and
- Investigations due to complaints filed against nurses practicing in the state under the NLC.

The DOH will incur a negative fiscal impact of \$6,000 annually to pay the compact membership fee. Although indeterminate at this time, additional revenue for the multistate application fees and

⁴⁸ E-mail from the staff of the DOH (December 10, 2015), on file with the Health Quality Subcommittee.

current resources are adequate to absorb any fiscal impact.⁴⁹ The bill requires the DOH to comply with the rules adopted by the commission. Until the content of the rules is known, the fiscal impact for compliance is indeterminate.

A reduction in expenditures will shift from licensure by endorsement to multistate licenses since nurses from member states will no longer apply for and will not need to obtain a Florida license to practice.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A nurse currently licensed in Florida would be subject to a fee for the conversion of his or her single-state license to a multistate license.

Fees associated with applying for a license in a party state would be eliminated for a nurse whose home state is Florida and wants to practice in a party state, as well as a nurse whose home state is in a party state and wishes to practice in Florida. In addition, employers of nurses will likely experience improved ease of recruitment, as nurses can more easily move between states, both permanently and temporarily.

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:

As discussed below in the section entitled, "RULE-MAKING AUTHORITY," the bill delegates authority to the commission to adopt rules that facilitate and coordinate the implementation and administration of the Nurse Licensure Compact.

If enacted into law, the state will effectively bind itself to rules not yet adopted by the commission. The Florida Supreme Court has held that while it is within the province of the Legislature to adopt federal statutes enacted by Congress and rules promulgated by federal administrative bodies that are in existence at the time the Legislature acts, it is an unconstitutional delegation of legislative power to prospectively adopt federal statutes not yet enacted by Congress and rules not yet promulgated by federal administrative bodies.⁵⁰⁵¹ Under this holding, the constitutionality of the bill's

⁴⁹ *Supra* note 48.

⁵⁰ *Freimuth v. State*, 272 So.2d 473, 476 (Fla. 1972) (quoting *Fla. Ind. Comm'n v. State ex rel. Orange State Oil Co.*, 155 Fla. 772 (1945).

adoption of prospective rules might be questioned, and there does not appear to be binding Florida case law that squarely address this issue in the context of interstate compacts.

The most recent opportunity Florida courts have had to address this issue appears to be in *Department of Children and Family Services v. L.G.*, involving the Interstate Compact for the Placement of Children (ICPC).⁵² The First District Court of Appeal considered an argument that the regulations adopted by the Association of Administrators of the Interstate Compact were binding and that the lower court's order permitting a mother and child to relocate to another state was in violation of the ICPC. The court denied the appeal and held that the Association's regulations did not apply as they conflicted with the ICPC and the regulations did not apply to the facts of the case.

The court also references language in the ICPC that confers to its compact administrators the "power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact."⁵³ The court states that "the precise legal effect of the ICPC compact administrators' regulations in Florida is unclear," but noted that it did not need to address the question to decide the case.⁵⁴ However, in a footnote, the court provided:

Any regulations promulgated before Florida adopted the ICPC did not, of course, reflect the vote of a Florida compact administrator, and no such regulations were ever themselves enacted into law in Florida. When the Legislature did adopt the ICPC, it did not (and could not) enact as the law of Florida or adopt prospectively regulations then yet to be promulgated by an entity not even covered by the Florida Administrative Procedure Act. See *Freimuth v. State*, 272 So.2d 473, 476 (Fla.1972); *Fla. Indus. Comm'n v. State ex rel. Orange State Oil Co.*, 155 Fla. 772, 21 So.2d 599, 603 (1945) ("[I]t is within the province of the legislature to approve and adopt the provisions of federal statutes, and all of the administrative rules made by a federal administrative body, that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."); *Brazil v. Div. of Admin.*, 347 So.2d 755, 757-58 (Fla. 1st DCA 1977), *disapproved on other grounds by LaPointe Outdoor Adver. v. Fla. Dep't of Transp.*, 398 So.2d 1370, 1370 (Fla.1981). The ICPC compact administrators stand on the same footing as federal government administrators in this regard.⁵⁵

In accordance with the discussion provided by the court in this above-cited footnote, it may be argued that the bill's delegation of rule-making authority to the commission is similar to the delegation to the ICPC compact administrators, and thus, could constitute an unlawful delegation of legislative authority. This case, however, does not appear to be binding as precedent as the court's footnote discussion is dicta.⁵⁶

The bill requires the Florida Center for Nursing to assess the impact on the state's participation in the Nurse Licensure Agreement, and include such impact in its strategy for meeting the state's needs for nursing resources. Based on the assessment provided by the Florida Center for Nursing, the Legislature may make decisions on Florida's continued participation in the NLC. The Legislature may

⁵¹ This prohibition is based on the separation of powers doctrine, set forth in Article II, Section 3 of the Florida Constitution, which has been construed in Florida to require the Legislature, when delegating the administration of legislative programs, to establish the minimum standards and guidelines ascertainable by reference to the enactment creating the program. See *Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).

⁵² 801 So.2d 1047 (Fla. 1st DCA 2001).

⁵³ *Id.* at 1052.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Dicta are statements of a court that are not essential to the determination of the case before it and are not a part of the law of the case. Dicta has no binding legal effect and is without force as judicial precedent. 12A FLA JUR. 2D *Courts and Judges* s. 191 (2015).

also review and reenact the NLC post-adoption of the commission's rules, which may counter a claim that the authority given to the NLC commission to adopt rules is an unlawful delegation.⁵⁷

B. RULE-MAKING AUTHORITY:

The bill authorizes the Interstate Commission of Nurse Licensure Compact Administrators to adopt rules to facilitate and coordinate the implementation and administration of the compact. The NLC specifies that the rules have the force and effect of law and are binding in all party states. If a party state fails to meet its obligations under the NLC or the promulgated rules, the state may be subject to remedial training, alternative dispute resolution, suspension, termination, or legal action.

The compact details the rule-making process that must be followed including, notice, an opportunity for public participation, and hearings. The compact also provides a procedure for emergency rule-making in cases of imminent danger to public health, safety, or welfare, to prevent financial loss to the state's or commission, or to comply with federal laws or regulations. All rules and amendments are binding on party state as of the effective date specified.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵⁷ *Supra* fn. 24.

1 A bill to be entitled
2 An act relating to the Nurse Licensure Compact;
3 amending s. 456.073, F.S.; requiring the Department of
4 Health to report certain investigative information to
5 the coordinated licensure information system; amending
6 s. 456.076, F.S.; requiring an impaired practitioner
7 consultant to disclose certain information to the
8 department; requiring a nurse holding a multistate
9 license to report participation in a treatment program
10 to the department; amending s. 464.003, F.S.; revising
11 definitions, to conform; amending s. 464.004, F.S.;
12 requiring the executive director of the Board of
13 Nursing or his or her designee to serve as state
14 administrator of the Nurse Licensure Compact; amending
15 s. 464.008, F.S.; providing eligibility criteria for a
16 multistate license; requiring that multistate licenses
17 be distinguished from single-state licenses; exempting
18 certain persons from licensed practical nurse and
19 registered nurse licensure requirements; amending s.
20 464.009, F.S.; exempting certain persons from
21 requirements for licensure by endorsement; creating s.
22 464.0095, F.S.; creating the Nurse Licensure Compact;
23 providing findings and purpose; providing definitions;
24 providing for the recognition of nursing licenses in
25 party states; requiring party states to perform
26 criminal history checks of licensure applicants;

27 providing requirements for obtaining and retaining a
28 multistate license; authorizing party states to take
29 adverse action against a nurse's multistate licensure
30 privilege; requiring notification to the home
31 licensing state of an adverse action against a
32 licensee; requiring nurses practicing in party states
33 to comply with state practice laws; providing
34 limitations for licensees not residing in a party
35 state; providing the effect of the act on a current
36 licensee; providing application requirements for a
37 multistate license; providing licensure requirements
38 when a licensee moves between party states or to a
39 nonparty state; providing certain authority to state
40 licensing boards of party states; requiring
41 deactivation of a nurse's multistate licensure
42 privilege under certain circumstances; authorizing
43 participation in an alternative program in lieu of
44 adverse action against a license; requiring all party
45 states to participate in a coordinated licensure
46 information; providing for the development of the
47 system, reporting procedures, and the exchange of
48 certain information between party states; establishing
49 the Interstate Commission of Nurse Licensure Compact
50 Administrators; providing for the jurisdiction and
51 venue for court proceedings; providing membership and
52 duties; authorizing the commission to adopt rules;

53 providing rulemaking procedures; providing for state
54 enforcement of the compact; providing for the
55 termination of compact membership; providing
56 procedures for the resolution of certain disputes;
57 providing an effective date of the compact; providing
58 a procedure for membership termination; providing
59 compact amendment procedures; authorizing nonparty
60 states to participate in commission activities before
61 adoption of the compact; providing construction and
62 severability; amending s. 464.012, F.S.; authorizing a
63 multistate licensee under the compact to be certified
64 as an advanced registered nurse practitioner if
65 certain eligibility criteria are met; amending s.
66 464.015, F.S.; authorizing registered nurses and
67 licensed practical nurses holding a multistate license
68 under the compact to use certain titles and
69 abbreviations; amending s. 464.018, F.S.; revising the
70 grounds for denial of a nursing license or
71 disciplinary action against a nursing licensee;
72 authorizing certain disciplinary action under the
73 compact for certain prohibited acts; amending s.
74 464.0195, F.S.; revising the information required to
75 be included in the database on nursing supply and
76 demand; requiring the Florida Center for Nursing to
77 analyze and make future projections of the supply and
78 demand for nurses; authorizing the center to request,

79 and requiring the Board of Nursing to provide, certain
 80 information about licensed nurses; providing an
 81 effective date.

82

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

84

85 Section 1. Subsection (10) of section 456.073, Florida
 86 Statutes, is amended to read:

87 456.073 Disciplinary proceedings.—Disciplinary proceedings
 88 for each board shall be within the jurisdiction of the
 89 department.

90 (10) The complaint and all information obtained pursuant
 91 to the investigation by the department are confidential and
 92 exempt from s. 119.07(1) until 10 days after probable cause has
 93 been found to exist by the probable cause panel or by the
 94 department, or until the regulated professional or subject of
 95 the investigation waives his or her privilege of
 96 confidentiality, whichever occurs first. The department shall
 97 report any significant investigation information relating to a
 98 nurse holding a multistate license to the coordinated licensure
 99 information system pursuant to s. 464.0095. Upon completion of
 100 the investigation and a recommendation by the department to find
 101 probable cause, and pursuant to a written request by the subject
 102 or the subject's attorney, the department shall provide the
 103 subject an opportunity to inspect the investigative file or, at
 104 the subject's expense, forward to the subject a copy of the

105 | investigative file. Notwithstanding s. 456.057, the subject may
 106 | inspect or receive a copy of any expert witness report or
 107 | patient record connected with the investigation if the subject
 108 | agrees in writing to maintain the confidentiality of any
 109 | information received under this subsection until 10 days after
 110 | probable cause is found and to maintain the confidentiality of
 111 | patient records pursuant to s. 456.057. The subject may file a
 112 | written response to the information contained in the
 113 | investigative file. Such response must be filed within 20 days
 114 | of mailing by the department, unless an extension of time has
 115 | been granted by the department. This subsection does not
 116 | prohibit the department from providing such information to any
 117 | law enforcement agency or to any other regulatory agency.

118 | Section 2. Subsection (9) of section 456.076, Florida
 119 | Statutes, is amended to read:

120 | 456.076 Treatment programs for impaired practitioners.—

121 | (9) An impaired practitioner consultant is the official
 122 | custodian of records relating to the referral of an impaired
 123 | licensee or applicant to that consultant and any other
 124 | interaction between the licensee or applicant and the
 125 | consultant. The consultant may disclose to the impaired licensee
 126 | or applicant or his or her designee any information that is
 127 | disclosed to or obtained by the consultant or that is
 128 | confidential under paragraph (6)(a), but only to the extent that
 129 | it is necessary to do so to carry out the consultant's duties
 130 | under this section. The department, and any other entity that

131 enters into a contract with the consultant to receive the
 132 services of the consultant, has direct administrative control
 133 over the consultant to the extent necessary to receive
 134 disclosures from the consultant as allowed by federal law. The
 135 consultant must disclose to the department, upon the
 136 department's request, whether an applicant for a multistate
 137 license under s. 464.0095 is participating in a treatment
 138 program and must report to the department when a nurse holding a
 139 multistate license under s. 464.0095 enters a treatment program.
 140 A nurse holding a multistate license pursuant to s. 464.0095
 141 must report to the department within 2 business days after
 142 entering a treatment program pursuant to this section. If a
 143 disciplinary proceeding is pending, an impaired licensee may
 144 obtain such information from the department under s. 456.073.

145 Section 3. Subsections (16) and (22) of section 464.003,
 146 Florida Statutes, are amended to read:

147 464.003 Definitions.—As used in this part, the term:

148 (16) "Licensed practical nurse" means any person licensed
 149 in this state or holding an active multistate license under s.
 150 464.0095 to practice practical nursing.

151 (22) "Registered nurse" means any person licensed in this
 152 state or holding an active multistate license under s. 464.0095
 153 to practice professional nursing.

154 Section 4. Subsection (5) is added to section 464.004,
 155 Florida Statutes, to read:

156 464.004 Board of Nursing; membership; appointment; terms.—

157 (5) The executive director of the board appointed pursuant
 158 to s. 456.004(2) or his or her designee shall serve as the state
 159 administrator of the Nurse Licensure Compact as required under
 160 s. 464.0095.

161 Section 5. Subsection (2) of section 464.008, Florida
 162 Statutes, is amended, and subsection (5) is added to that
 163 section, to read:

164 464.008 Licensure by examination.—

165 (2) (a) Each applicant who passes the examination and
 166 provides proof of meeting the educational requirements specified
 167 in subsection (1) shall, unless denied pursuant to s. 464.018,
 168 be entitled to licensure as a registered professional nurse or a
 169 licensed practical nurse, whichever is applicable.

170 (b) An applicant who resides in this state, meets the
 171 licensure requirements of this section, and meets the criteria
 172 for multistate licensure under s. 464.0095 may request the
 173 issuance of a multistate license from the department.

174 (c) A nurse who holds a single-state license in this state
 175 and applies to the department for a multistate license must meet
 176 the eligibility criteria for a multistate license under s.
 177 464.0095 and must pay an application and licensure fee to change
 178 the licensure status.

179 (d) The department shall conspicuously distinguish a
 180 multistate license from a single-state license.

181 (5) A person holding an active multistate license in
 182 another state pursuant to s. 464.0095 is exempt from the

183 licensure requirements of this section.

184 Section 6. Subsection (7) is added to section 464.009,
185 Florida Statutes, to read:

186 464.009 Licensure by endorsement.—

187 (7) A person holding an active multistate license in
188 another state pursuant to s. 464.0095 is exempt from the
189 requirements for licensure by endorsement in this section.

190 Section 7. Section 464.0095, Florida Statutes, is created
191 to read:

192 464.0095 Nurse Licensure Compact.—The Nurse Licensure
193 Compact is hereby enacted into law and entered into by this
194 state with all other jurisdictions legally joining therein in
195 the form substantially as follows:

196 ARTICLE I

197 FINDINGS AND DECLARATION OF PURPOSE

198 (1) The party states find that:

199 (a) The health and safety of the public are affected by
200 the degree of compliance with and the effectiveness of
201 enforcement activities related to state nurse licensure laws.

202 (b) Violations of nurse licensure and other laws
203 regulating the practice of nursing may result in injury or harm
204 to the public.

205 (c) The expanded mobility of nurses and the use of
206 advanced communication technologies as part of the nation's
207 health care delivery system require greater coordination and
208 cooperation among states in the areas of nurse licensure and

209 regulation.

210 (d) New practice modalities and technology make compliance
 211 with individual state nurse licensure laws difficult and
 212 complex.

213 (e) The current system of duplicative licensure for nurses
 214 practicing in multiple states is cumbersome and redundant for
 215 both nurses and states.

216 (f) Uniformity of nurse licensure requirements throughout
 217 the states promotes public safety and public health benefits.

218 (2) The general purposes of this compact are to:

219 (a) Facilitate the states' responsibility to protect the
 220 public's health and safety.

221 (b) Ensure and encourage the cooperation of party states
 222 in the areas of nurse licensure and regulation.

223 (c) Facilitate the exchange of information among party
 224 states in the areas of nurse regulation, investigation, and
 225 adverse actions.

226 (d) Promote compliance with the laws governing the
 227 practice of nursing in each jurisdiction.

228 (e) Invest all party states with the authority to hold a
 229 nurse accountable for meeting all state practice laws in the
 230 state in which the patient is located at the time care is
 231 rendered through the mutual recognition of party state licenses.

232 (f) Decrease redundancies in the consideration and
 233 issuance of nurse licenses.

234 (g) Provide opportunities for interstate practice by

235 nurses who meet uniform licensure requirements.

236 ARTICLE II

237 DEFINITIONS

238 As used in this compact, the term:

239 (1) "Adverse action" means any administrative, civil,
 240 equitable, or criminal action permitted by a state's laws which
 241 is imposed by a licensing board or other authority against a
 242 nurse, including actions against an individual's license or
 243 multistate licensure privilege, such as revocation, suspension,
 244 probation, monitoring of the licensee, limitation on the
 245 licensee's practice, or any other encumbrance on licensure
 246 affecting a nurse's authorization to practice, including
 247 issuance of a cease and desist action.

248 (2) "Alternative program" means a nondisciplinary
 249 monitoring program approved by a licensing board.

250 (3) "Commission" means the Interstate Commission of Nurse
 251 Licensure Compact Administrators established by this compact.

252 (4) "Compact" means the Nurse Licensure Compact
 253 recognized, established, and entered into by the state under
 254 this compact.

255 (5) "Coordinated licensure information system" means an
 256 integrated process for collecting, storing, and sharing
 257 information on nurse licensure and enforcement activities
 258 related to nurse licensure laws which is administered by a
 259 nonprofit organization composed of and controlled by licensing
 260 boards.

261 (6) "Current significant investigative information" means:

262 (a) Investigative information that a licensing board,
 263 after a preliminary inquiry that includes notification and an
 264 opportunity for the nurse to respond, if required by state law,
 265 has reason to believe is not groundless and, if proved true,
 266 would indicate more than a minor infraction; or

267 (b) Investigative information that indicates that the
 268 nurse represents an immediate threat to public health and safety
 269 regardless of whether the nurse has been notified and had an
 270 opportunity to respond.

271 (7) "Encumbrance" means a revocation or suspension of, or
 272 any limitation on, the full and unrestricted practice of nursing
 273 imposed by a licensing board.

274 (8) "Home state" means the party state that is the nurse's
 275 primary state of residence.

276 (9) "Licensing board" means a party state's regulatory
 277 body responsible for issuing nurse licenses.

278 (10) "Multistate license" means a license to practice as a
 279 registered nurse (RN) or a licensed practical/vocational nurse
 280 (LPN/VN) issued by a home state licensing board which authorizes
 281 the licensed nurse to practice in all party states under a
 282 multistate licensure privilege.

283 (11) "Multistate licensure privilege" means a legal
 284 authorization associated with a multistate license permitting
 285 the practice of nursing as either an RN or an LPN/VN in a remote
 286 state.

287 (12) "Nurse" means an RN or LPN/VN, as those terms are
 288 defined by each party state's practice laws.

289 (13) "Party state" means any state that has adopted this
 290 compact.

291 (14) "Remote state" means a party state other than the
 292 home state.

293 (15) "Single-state license" means a nurse license issued
 294 by a party state which authorizes practice only within the
 295 issuing state and does not include a multistate licensure
 296 privilege to practice in any other party state.

297 (16) "State" means a state, territory, or possession of
 298 the United States, or the District of Columbia.

299 (17) "State practice laws" means a party state's laws,
 300 rules, and regulations that govern the practice of nursing,
 301 define the scope of nursing practice, and create the methods and
 302 grounds for imposing discipline. The term "state practice laws"
 303 does not include requirements necessary to obtain and retain a
 304 license, except for qualifications or requirements of the home
 305 state.

306 ARTICLE III

307 GENERAL PROVISIONS AND JURISDICTION

308 (1) A multistate license to practice registered or
 309 licensed practical/vocational nursing issued by a home state to
 310 a resident in that state shall be recognized by each party state
 311 as authorizing a nurse to practice as an RN or as an LPN/VN
 312 under a multistate licensure privilege in each party state.

313 (2) Each party state must implement procedures for
 314 considering the criminal history records of applicants for
 315 initial multistate licensure or licensure by endorsement. Such
 316 procedures shall include the submission of fingerprints or other
 317 biometric-based information by applicants for the purpose of
 318 obtaining an applicant's criminal history record information
 319 from the Federal Bureau of Investigation and the agency
 320 responsible for retaining that state's criminal records.

321 (3) In order for an applicant to obtain or retain a
 322 multistate license in the home state, each party state shall
 323 require that the applicant fulfills the following criteria:

324 (a) Meets the home state's qualifications for licensure or
 325 renewal of licensure, as well as all other applicable state
 326 laws.

327 (b)1. Has graduated or is eligible to graduate from a
 328 licensing board-approved RN or LPN/VN prelicensure education
 329 program; or

330 2. Has graduated from a foreign RN or LPN/VN prelicensure
 331 education program that has been approved by the authorized
 332 accrediting body in the applicable country and has been verified
 333 by a licensing board-approved independent credentials review
 334 agency to be comparable to a licensing board-approved
 335 prelicensure education program.

336 (c) If the applicant is a graduate of a foreign
 337 prelicensure education program not taught in English, or if
 338 English is not the applicant's native language, has successfully

339 passed a licensing board-approved English proficiency
 340 examination that includes the components of reading, speaking,
 341 writing, and listening.

342 (d) Has successfully passed an NCLEX-RN or NCLEX-PN
 343 Examination or recognized predecessor, as applicable.

344 (e) Is eligible for or holds an active, unencumbered
 345 license.

346 (f) Has submitted, in connection with an application for
 347 initial licensure or licensure by endorsement, fingerprints or
 348 other biometric data for the purpose of obtaining criminal
 349 history record information from the Federal Bureau of
 350 Investigation and the agency responsible for retaining that
 351 state's criminal records.

352 (g) Has not been convicted or found guilty, or has entered
 353 into an agreed disposition other than a disposition that results
 354 in nolle prosequi, of a felony offense under applicable state or
 355 federal criminal law.

356 (h) Has not been convicted or found guilty, or has entered
 357 into an agreed disposition other than a disposition that results
 358 in nolle prosequi, of a misdemeanor offense related to the
 359 practice of nursing as determined on a case-by-case basis.

360 (i) Is not currently enrolled in an alternative program.

361 (j) Is subject to self-disclosure requirements regarding
 362 current participation in an alternative program.

363 (k) Has a valid United States social security number.

364 (4) All party states may, in accordance with existing

365 state due process law, take adverse action against a nurse's
366 multistate licensure privilege, such as revocation, suspension,
367 probation, or any other action that affects the nurse's
368 authorization to practice under a multistate licensure
369 privilege, including cease and desist actions. If a party state
370 takes such action, it shall promptly notify the administrator of
371 the coordinated licensure information system. The administrator
372 of the coordinated licensure information system shall promptly
373 notify the home state of any such actions by remote states.

374 (5) A nurse practicing in a party state must comply with
375 the state practice laws of the state in which the patient is
376 located at the time service is provided. The practice of nursing
377 is not limited to patient care but shall include all nursing
378 practice as defined by the state practice laws of the party
379 state in which the patient is located. The practice of nursing
380 in a party state under a multistate licensure privilege subjects
381 a nurse to the jurisdiction of the licensing board, the courts,
382 and the laws of the party state in which the patient is located
383 at the time service is provided.

384 (6) A person not residing in a party state shall continue
385 to be able to apply for a party state's single-state license as
386 provided under the laws of each party state. The single-state
387 license granted to such a person does not grant the privilege to
388 practice nursing in any other party state. This compact does not
389 affect the requirements established by a party state for the
390 issuance of a single-state license.

391 (7) A nurse holding a home state multistate license, on
 392 the effective date of this compact, may retain and renew the
 393 multistate license issued by the nurse's then-current home
 394 state, provided that:

395 (a) A nurse who changes his or her primary state of
 396 residence after the effective date must meet all applicable
 397 requirements under subsection (3) to obtain a multistate license
 398 from a new home state.

399 (b) A nurse who fails to satisfy the multistate licensure
 400 requirements under subsection (3) due to a disqualifying event
 401 occurring after the effective date is ineligible to retain or
 402 renew a multistate license, and the nurse's multistate license
 403 shall be revoked or deactivated in accordance with applicable
 404 rules adopted by the commission.

405 ARTICLE IV

406 APPLICATIONS FOR LICENSURE IN A PARTY STATE

407 (1) Upon application for a multistate license, the
 408 licensing board in the issuing party state shall ascertain,
 409 through the coordinated licensure information system, whether
 410 the applicant has ever held, or is the holder of, a license
 411 issued by any other state, whether there are any encumbrances on
 412 any license or multistate licensure privilege held by the
 413 applicant, whether any adverse action has been taken against any
 414 license or multistate licensure privilege held by the applicant,
 415 and whether the applicant is currently participating in an
 416 alternative program.

417 (2) A nurse may hold a multistate license, issued by the
 418 home state, in only one party state at a time.

419 (3) If a nurse changes his or her primary state of
 420 residence by moving from one party state to another party state,
 421 the nurse must apply for licensure in the new home state, and
 422 the multistate license issued by the prior home state shall be
 423 deactivated in accordance with applicable rules adopted by the
 424 commission.

425 (a) The nurse may apply for licensure in advance of a
 426 change in his or her primary state of residence.

427 (b) A multistate license may not be issued by the new home
 428 state until the nurse provides satisfactory evidence of a change
 429 in his or her primary state of residence to the new home state
 430 and satisfies all applicable requirements to obtain a multistate
 431 license from the new home state.

432 (4) If a nurse changes his or her primary state of
 433 residence by moving from a party state to a nonparty state, the
 434 multistate license issued by the prior home state shall convert
 435 to a single-state license valid only in the former home state.

436 ARTICLE V

437 ADDITIONAL AUTHORITY VESTED IN PARTY STATE LICENSING BOARDS

438 (1) In addition to the other powers conferred by state
 439 law, a licensing board or state agency may:

440 (a) Take adverse action against a nurse's multistate
 441 licensure privilege to practice within that party state.

442 1. Only the home state has the power to take adverse

443 action against a nurse's license issued by the home state.

444 2. For purposes of taking adverse action, the home state
445 licensing board or state agency shall give the same priority and
446 effect to conduct reported by a remote state as it would if such
447 conduct had occurred within the home state. In so doing, the
448 home state shall apply its own state laws to determine
449 appropriate action.

450 (b) Issue cease and desist orders or impose an encumbrance
451 on a nurse's authority to practice within that party state.

452 (c) Complete any pending investigation of a nurse who
453 changes his or her primary state of residence during the course
454 of such investigation. The licensing board or state agency may
455 also take appropriate action and shall promptly report the
456 conclusions of such investigation to the administrator of the
457 coordinated licensure information system. The administrator of
458 the coordinated licensure information system shall promptly
459 notify the new home state of any such action.

460 (d) Issue subpoenas for both hearings and investigations
461 that require the attendance and testimony of witnesses or the
462 production of evidence. Subpoenas issued by a licensing board or
463 state agency in a party state for the attendance and testimony
464 of witnesses or the production of evidence from another party
465 state shall be enforced in the latter state by any court of
466 competent jurisdiction according to the practice and procedure
467 of that court applicable to subpoenas issued in proceedings
468 pending before it. The issuing authority shall pay any witness

469 fees, travel expenses, and mileage and other fees required by
 470 the service statutes of the state in which the witnesses or
 471 evidence is located.

472 (e) Obtain and submit, for each nurse licensure applicant,
 473 fingerprint or other biometric-based information to the Federal
 474 Bureau of Investigation for criminal background checks, receive
 475 the results of the Federal Bureau of Investigation record search
 476 on criminal background checks, and use the results in making
 477 licensure decisions.

478 (f) If otherwise permitted by state law, recover from the
 479 affected nurse the costs of investigations and disposition of
 480 cases resulting from any adverse action taken against that
 481 nurse.

482 (g) Take adverse action based on the factual findings of
 483 the remote state, provided that the licensing board or state
 484 agency follows its own procedures for taking such adverse
 485 action.

486 (2) If adverse action is taken by the home state against a
 487 nurse's multistate license, the nurse's multistate licensure
 488 privilege to practice in all other party states shall be
 489 deactivated until all encumbrances are removed from the
 490 multistate license. All home state disciplinary orders that
 491 impose adverse action against a nurse's multistate license shall
 492 include a statement that the nurse's multistate licensure
 493 privilege is deactivated in all party states during the pendency
 494 of the order.

495 (3) This compact does not override a party state's
 496 decision that participation in an alternative program may be
 497 used in lieu of adverse action. The home state licensing board
 498 shall deactivate the multistate licensure privilege under the
 499 multistate license of any nurse for the duration of the nurse's
 500 participation in an alternative program.

501 ARTICLE VI

502 COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE

503 INFORMATION

504 (1) All party states shall participate in a coordinated
 505 licensure information system relating to all licensed RNs and
 506 LPNs/VNs. This system shall include information on the licensure
 507 and disciplinary history of each nurse, as submitted by party
 508 states, to assist in the coordination of nurse licensure and
 509 enforcement efforts.

510 (2) The commission, in consultation with the administrator
 511 of the coordinated licensure information system, shall formulate
 512 necessary and proper procedures for the identification,
 513 collection, and exchange of information under this compact.

514 (3) All licensing boards shall promptly report to the
 515 coordinated licensure information system any adverse action, any
 516 current significant investigative information, denials of
 517 applications, the reasons for application denials, and nurse
 518 participation in alternative programs known to the licensing
 519 board regardless of whether such participation is deemed
 520 nonpublic or confidential under state law.

521 (4) Current significant investigative information and
 522 participation in nonpublic or confidential alternative programs
 523 shall be transmitted through the coordinated licensure
 524 information system only to party state licensing boards.

525 (5) Notwithstanding any other provision of law, all party
 526 state licensing boards contributing information to the
 527 coordinated licensure information system may designate
 528 information that may not be shared with nonparty states or
 529 disclosed to other entities or individuals without the express
 530 permission of the contributing state.

531 (6) Any personal identifying information obtained from the
 532 coordinated licensure information system by a party state
 533 licensing board may not be shared with nonparty states or
 534 disclosed to other entities or individuals except to the extent
 535 permitted by the laws of the party state contributing the
 536 information.

537 (7) Any information contributed to the coordinated
 538 licensure information system which is subsequently required to
 539 be expunged by the laws of the party state contributing that
 540 information shall also be expunged from the coordinated
 541 licensure information system.

542 (8) The compact administrator of each party state shall
 543 furnish a uniform data set to the compact administrator of each
 544 other party state, which shall include, at a minimum:

545 (a) Identifying information.

546 (b) Licensure data.

547 (c) Information related to alternative program
 548 participation.

549 (d) Other information that may facilitate the
 550 administration of this compact, as determined by commission
 551 rules.

552 (9) The compact administrator of a party state shall
 553 provide all investigative documents and information requested by
 554 another party state.

555 ARTICLE VII

556 ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE

557 COMPACT ADMINISTRATORS

558 (1) The party states hereby create and establish a joint
 559 public entity known as the Interstate Commission of Nurse
 560 Licensure Compact Administrators.

561 (a) The commission is an instrumentality of the party
 562 states.

563 (b) Venue is proper, and judicial proceedings by or
 564 against the commission shall be brought solely and exclusively,
 565 in a court of competent jurisdiction where the commission's
 566 principal office is located. The commission may waive venue and
 567 jurisdictional defenses to the extent it adopts or consents to
 568 participate in alternative dispute resolution proceedings.

569 (c) This compact does not waive sovereign immunity.

570 (2) (a) Each party state shall have and be limited to one
 571 administrator. The executive director of the state licensing
 572 board or his or her designee shall be the administrator of this

573 compact for each party state. Any administrator may be removed
574 or suspended from office as provided by the law of the state
575 from which the administrator is appointed. Any vacancy occurring
576 on the commission shall be filled in accordance with the laws of
577 the party state in which the vacancy exists.

578 (b) Each administrator is entitled to one vote with regard
579 to the adoption of rules and the creation of bylaws and shall
580 otherwise have an opportunity to participate in the business and
581 affairs of the commission. An administrator shall vote in person
582 or by such other means as provided in the bylaws. The bylaws may
583 provide for an administrator's participation in meetings by
584 telephone or other means of communication.

585 (c) The commission shall meet at least once during each
586 calendar year. Additional meetings shall be held as set forth in
587 the commission's bylaws or rules.

588 (d) All meetings shall be open to the public, and public
589 notice of meetings shall be given in the same manner as required
590 under Article VIII of this compact.

591 (e) The commission may convene in a closed, nonpublic
592 meeting if the commission must discuss:

593 1. Failure of a party state to comply with its obligations
594 under this compact;

595 2. The employment, compensation, discipline, or other
596 personnel matters, practices, or procedures related to specific
597 employees or other matters related to the commission's internal
598 personnel practices and procedures;

- 599 3. Current, threatened, or reasonably anticipated
 600 litigation;
- 601 4. Negotiation of contracts for the purchase or sale of
 602 goods, services, or real estate;
- 603 5. Accusing any person of a crime or formally censuring
 604 any person;
- 605 6. Disclosure of trade secrets or commercial or financial
 606 information that is privileged or confidential;
- 607 7. Disclosure of information of a personal nature where
 608 disclosure would constitute a clearly unwarranted invasion of
 609 personal privacy;
- 610 8. Disclosure of investigatory records compiled for law
 611 enforcement purposes;
- 612 9. Disclosure of information related to any reports
 613 prepared by or on behalf of the commission for the purpose of
 614 investigation of compliance with this compact; or
- 615 10. Matters specifically exempted from disclosure by
 616 federal or state statute.
- 617 (f) If a meeting, or portion of a meeting, is closed
 618 pursuant to this subsection, the commission's legal counsel or
 619 designee shall certify that the meeting, or portion of the
 620 meeting, is closed and shall reference each relevant exempting
 621 provision. The commission shall keep minutes that fully and
 622 clearly describe all matters discussed in a meeting and shall
 623 provide a full and accurate summary of actions taken, and the
 624 reasons therefor, including a description of the views

625 expressed. All documents considered in connection with an action
626 shall be identified in such minutes. All minutes and documents
627 of a closed meeting shall remain under seal, subject to release
628 by a majority vote of the commission or order of a court of
629 competent jurisdiction.

630 (3) The commission shall, by a majority vote of the
631 administrators, prescribe bylaws or rules to govern its conduct
632 as may be necessary or appropriate to carry out the purposes and
633 exercise the powers of this compact, including, but not limited
634 to:

635 (a) Establishing the commission's fiscal year.
636 (b) Providing reasonable standards and procedures:
637 1. For the establishment and meetings of other committees.
638 2. Governing any general or specific delegation of any
639 authority or function of the commission.

640 (c) Providing reasonable procedures for calling and
641 conducting meetings of the commission, ensuring reasonable
642 advance notice of all meetings, and providing an opportunity for
643 attendance of such meetings by interested parties, with
644 enumerated exceptions designed to protect the public's interest,
645 the privacy of individuals, and proprietary information,
646 including trade secrets. The commission may meet in closed
647 session only after a majority of the administrators vote to
648 close a meeting in whole or in part. As soon as practicable, the
649 commission must make public a copy of the vote to close the
650 meeting revealing the vote of each administrator, with no proxy

651 votes allowed.

652 (d) Establishing the titles, duties and authority, and
 653 reasonable procedures for the election of the commission's
 654 officers.

655 (e) Providing reasonable standards and procedures for the
 656 establishment of the commission's personnel policies and
 657 programs. Notwithstanding any civil service or other similar
 658 laws of any party state, the bylaws shall exclusively govern the
 659 commission's personnel policies and programs.

660 (f) Providing a mechanism for winding up the commission's
 661 operations and the equitable disposition of any surplus funds
 662 that may exist after the termination of this compact after the
 663 payment or reserving of all of its debts and obligations.

664 (4) The commission shall publish its bylaws and rules, and
 665 any amendments thereto, in a convenient form on the commission's
 666 website.

667 (5) The commission shall maintain its financial records in
 668 accordance with the bylaws.

669 (6) The commission shall meet and take such actions as are
 670 consistent with this compact and the bylaws.

671 (7) The commission has the power to:

672 (a) Adopt uniform rules to facilitate and coordinate
 673 implementation and administration of this compact. The rules
 674 shall have the force and effect of law and are binding in all
 675 party states.

676 (b) Bring and prosecute legal proceedings or actions in

677 the name of the commission, provided that the standing of any
 678 licensing board to sue or be sued under applicable law are not
 679 affected.

680 (c) Purchase and maintain insurance and bonds.

681 (d) Borrow, accept, or contract for services of personnel,
 682 including employees of a party state or nonprofit organizations.

683 (e) Cooperate with other organizations that administer
 684 state compacts related to the regulation of nursing, including
 685 sharing administrative or staff expenses, office space, or other
 686 resources.

687 (f) Hire employees, elect or appoint officers, fix
 688 compensation, define duties, grant such individuals appropriate
 689 authority to carry out the purposes of this compact, and
 690 establish the commission's personnel policies and programs
 691 relating to conflicts of interest, qualifications of personnel,
 692 and other related personnel matters.

693 (g) Accept any and all appropriate donations, grants, and
 694 gifts of money, equipment, supplies, materials, and services and
 695 receive, use, and dispose of the same, provided that, at all
 696 times, the commission shall avoid any appearance of impropriety
 697 or conflict of interest.

698 (h) Lease, purchase, accept appropriate gifts or donations
 699 of, or otherwise own, hold, improve, or use any property,
 700 whether real, personal, or mixed, provided that, at all times,
 701 the commission shall avoid any appearance of impropriety.

702 (i) Sell, convey, mortgage, pledge, lease, exchange,

703 abandon, or otherwise dispose of any property, whether real,
 704 personal, or mixed.

705 (j) Establish a budget and make expenditures.

706 (k) Borrow money.

707 (l) Appoint committees, including advisory committees
 708 comprised of administrators, state nursing regulators, state
 709 legislators or their representatives, consumer representatives,
 710 and other interested persons.

711 (m) Provide information to, receive information from, and
 712 cooperate with law enforcement agencies.

713 (n) Adopt and use an official seal.

714 (o) Perform such other functions as may be necessary or
 715 appropriate to achieve the purposes of this compact consistent
 716 with the state regulation of nurse licensure and practice.

717 (8) Relating to the financing of the commission, the
 718 commission:

719 (a) Shall pay, or provide for the payment of, the
 720 reasonable expenses of its establishment, organization, and
 721 ongoing activities.

722 (b) May also levy and collect an annual assessment from
 723 each party state to cover the cost of its operations,
 724 activities, and staff in its annual budget as approved each
 725 year. The aggregate annual assessment amount, if any, shall be
 726 allocated based on a formula to be determined by the commission,
 727 which shall adopt a rule that is binding on all party states.

728 (c) May not incur obligations of any kind before securing

729 the funds adequate to meet the same; and the commission may not
 730 pledge the credit of any of the party states, except by and with
 731 the authority of such party state.

732 (d) Shall keep accurate accounts of all receipts and
 733 disbursements. The commission's receipts and disbursements are
 734 subject to the audit and accounting procedures established under
 735 its bylaws. However, all receipts and disbursements of funds
 736 handled by the commission shall be audited yearly by a certified
 737 or licensed public accountant, and the report of the audit shall
 738 be included in, and become part of, the commission's annual
 739 report.

740 (9) Relating to the sovereign immunity, defense, and
 741 indemnification of the commission:

742 (a) The administrators, officers, executive director,
 743 employees, and representatives of the commission are immune from
 744 suit and liability, either personally or in their official
 745 capacity, for any claim for damage to or loss of property or
 746 personal injury or other civil liability caused by or arising
 747 out of any actual or alleged act, error, or omission that
 748 occurred, or that the person against whom the claim is made had
 749 a reasonable basis for believing occurred, within the scope of
 750 commission employment, duties, or responsibilities. This
 751 paragraph does not protect any such person from suit or
 752 liability for any damage, loss, injury, or liability caused by
 753 the intentional, willful, or wanton misconduct of that person.

754 (b) The commission shall defend any administrator,

755 officer, executive director, employee, or representative of the
 756 commission in any civil action seeking to impose liability
 757 arising out of any actual or alleged act, error, or omission
 758 that occurred within the scope of commission employment, duties,
 759 or responsibilities or that the person against whom the claim is
 760 made had a reasonable basis for believing occurred within the
 761 scope of commission employment, duties, or responsibilities,
 762 provided that the actual or alleged act, error, or omission did
 763 not result from that person's intentional, willful, or wanton
 764 misconduct. This paragraph does not prohibit that person from
 765 retaining his or her own counsel.

766 (c) The commission shall indemnify and hold harmless any
 767 administrator, officer, executive director, employee, or
 768 representative of the commission for the amount of any
 769 settlement or judgment obtained against that person arising out
 770 of any actual or alleged act, error, or omission that occurred
 771 within the scope of commission employment, duties, or
 772 responsibilities or that such person had a reasonable basis for
 773 believing occurred within the scope of commission employment,
 774 duties, or responsibilities, provided that the actual or alleged
 775 act, error, or omission did not result from the intentional,
 776 willful, or wanton misconduct of that person.

777 ARTICLE VIII

778 RULEMAKING

779 (1) The commission shall exercise its rulemaking powers
 780 pursuant to the criteria set forth in this article and the rules

781 adopted thereunder. Rules and amendments become binding as of
 782 the date specified in each rule or amendment and have the same
 783 force and effect as provisions of this compact.

784 (2) Rules or amendments to the rules shall be adopted at a
 785 regular or special meeting of the commission.

786 (3) Before adoption of a final rule or final rules by the
 787 commission, and at least 60 days before the meeting at which the
 788 rule will be considered and voted upon, the commission shall
 789 file a notice of proposed rulemaking:

790 (a) On the commission's website.

791 (b) On the website of each licensing board or the
 792 publication in which each state would otherwise publish proposed
 793 rules.

794 (4) The notice of proposed rulemaking shall include:

795 (a) The proposed time, date, and location of the meeting
 796 in which the rule will be considered and voted upon.

797 (b) The text of the proposed rule or amendment and the
 798 reason for the proposed rule.

799 (c) A request for comments on the proposed rule from any
 800 interested person.

801 (d) The manner in which an interested person may submit
 802 notice to the commission of his or her intention to attend the
 803 public hearing and any written comments.

804 (5) Before adoption of a proposed rule, the commission
 805 shall allow persons to submit written data, facts, opinions, and
 806 arguments, which shall be made available to the public.

807 (6) The commission shall grant an opportunity for a public
 808 hearing before it adopts a rule or amendment.

809 (7) The commission shall publish the place, time, and date
 810 of the scheduled public hearing.

811 (a) Hearings shall be conducted in a manner providing each
 812 person who wishes to comment a fair and reasonable opportunity
 813 to comment orally or in writing. All hearings will be recorded,
 814 and a copy will be made available upon request.

815 (b) This article does not require a separate hearing on
 816 each rule. Rules may be grouped for the convenience of the
 817 commission at hearings required by this article.

818 (8) If no interested person appears at the public hearing,
 819 the commission may proceed with adoption of the proposed rule.

820 (9) Following the scheduled hearing date, or by the close
 821 of business on the scheduled hearing date if the hearing is not
 822 held, the commission shall consider all written and oral
 823 comments received.

824 (10) The commission shall, by majority vote of all
 825 administrators, take final action on the proposed rule and shall
 826 determine the effective date of the rule, if any, based on the
 827 rulemaking record and the full text of the rule.

828 (11) Upon determination that an emergency exists, the
 829 commission may consider and adopt an emergency rule without
 830 prior notice, opportunity for comment, or hearing, provided that
 831 the usual rulemaking procedures provided in this compact and in
 832 this article shall be applied retroactively to the rule as soon

833 as reasonably possible within 90 days after the effective date
 834 of the rule. For the purposes of this subsection, an emergency
 835 rule is one that must be adopted immediately in order to:

836 (a) Meet an imminent threat to public health, safety, or
 837 welfare;

838 (b) Prevent a loss of commission or party state funds; or

839 (c) Meet a deadline for the adoption of an administrative
 840 rule that is required by federal law or rule.

841 (12) The commission may direct revisions to a previously
 842 adopted rule or amendment for purposes of correcting
 843 typographical errors, errors in format, errors in consistency,
 844 or grammatical errors. Public notice of any revisions shall be
 845 posted on the commission's website. The revision is subject to
 846 challenge by any person for 30 days after posting. The revision
 847 may be challenged only on grounds that the revision results in a
 848 material change to a rule. A challenge must be made in writing
 849 and delivered to the commission before the end of the notice
 850 period. If no challenge is made, the revision shall take effect
 851 without further action. If the revision is challenged, the
 852 revision may not take effect without the commission's approval.

853 ARTICLE IX

854 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

855 (1) Oversight of this compact shall be accomplished by:

856 (a) Each party state, which shall enforce this compact and
 857 take all actions necessary and appropriate to effectuate this
 858 compact's purposes and intent.

859 (b) The commission, which is entitled to receive service
860 of process in any proceeding that may affect the powers,
861 responsibilities, or actions of the commission and has standing
862 to intervene in such a proceeding for all purposes. Failure to
863 provide service of process in such proceeding to the commission
864 renders a judgment or order void as to the commission, this
865 compact, or adopted rules.

866 (2) When the commission determines that a party state has
867 defaulted in the performance of its obligations or
868 responsibilities under this compact or the adopted rules, the
869 commission shall:

870 (a) Provide written notice to the defaulting state and
871 other party states of the nature of the default, the proposed
872 means of curing the default, or any other action to be taken by
873 the commission.

874 (b) Provide remedial training and specific technical
875 assistance regarding the default.

876 (3) If a state in default fails to cure the default, the
877 defaulting state's membership in this compact may be terminated
878 upon an affirmative vote of a majority of the administrators,
879 and all rights, privileges, and benefits conferred by this
880 compact may be terminated on the effective date of termination.
881 A cure of the default does not relieve the offending state of
882 obligations or liabilities incurred during the period of
883 default.

884 (4) Termination of membership in this compact shall be

885 imposed only after all other means of securing compliance have
886 been exhausted. Notice of intent to suspend or terminate shall
887 be given by the commission to the governor of the defaulting
888 state, to the executive officer of the defaulting state's
889 licensing board, and each of the party states.

890 (5) A state whose membership in this compact is terminated
891 is responsible for all assessments, obligations, and liabilities
892 incurred through the effective date of termination, including
893 obligations that extend beyond the effective date of
894 termination.

895 (6) The commission shall not bear any costs related to a
896 state that is found to be in default or whose membership in this
897 compact is terminated unless agreed upon in writing between the
898 commission and the defaulting state.

899 (7) The defaulting state may appeal the action of the
900 commission by petitioning the United States District Court for
901 the District of Columbia or the federal district in which the
902 commission has its principal offices. The prevailing party shall
903 be awarded all costs of such litigation, including reasonable
904 attorney fees.

905 (8) Dispute resolution may be used by the commission in
906 the following manner:

907 (a) Upon request by a party state, the commission shall
908 attempt to resolve disputes related to the compact that arise
909 among party states and between party and nonparty states.

910 (b) The commission shall adopt a rule providing for both

911 mediation and binding dispute resolution for disputes, as
 912 appropriate.

913 (c) In the event the commission cannot resolve disputes
 914 among party states arising under this compact:

915 1. The party states may submit the issues in dispute to an
 916 arbitration panel, which will be comprised of individuals
 917 appointed by the compact administrator in each of the affected
 918 party states and an individual mutually agreed upon by the
 919 compact administrators of all the party states involved in the
 920 dispute.

921 2. The decision of a majority of the arbitrators is final
 922 and binding.

923 (9) (a) The commission shall, in the reasonable exercise of
 924 its discretion, enforce the provisions and rules of this
 925 compact.

926 (b) By majority vote, the commission may initiate legal
 927 action in the United States District Court for the District of
 928 Columbia or the federal district in which the commission has its
 929 principal offices against a party state that is in default to
 930 enforce compliance with this compact and its adopted rules and
 931 bylaws. The relief sought may include both injunctive relief and
 932 damages. In the event judicial enforcement is necessary, the
 933 prevailing party shall be awarded all costs of such litigation,
 934 including reasonable attorney fees.

935 (c) The remedies provided in this subsection are not the
 936 exclusive remedies of the commission. The commission may pursue

937 any other remedies available under federal or state law.

938 ARTICLE X

939 EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

940 (1) This compact becomes effective and binding on the date
 941 of legislative enactment of this compact into law by no fewer
 942 than 26 states or on December 31, 2018, whichever occurs first.
 943 All party states to this compact which were also parties to the
 944 prior Nurse Licensure Compact ("prior compact"), superseded by
 945 this compact, are deemed to have withdrawn from the prior
 946 compact within 6 months after the effective date of this
 947 compact.

948 (2) Each party state to this compact shall continue to
 949 recognize a nurse's multistate licensure privilege to practice
 950 in that party state issued under the prior compact until such
 951 party state is withdrawn from the prior compact.

952 (3) Any party state may withdraw from this compact by
 953 enacting a statute repealing the compact. A party state's
 954 withdrawal does not take effect until 6 months after enactment
 955 of the repealing statute.

956 (4) A party state's withdrawal or termination does not
 957 affect the continuing requirement of the withdrawing or
 958 terminated state's licensing board to report adverse actions and
 959 significant investigations occurring before the effective date
 960 of such withdrawal or termination.

961 (5) This compact does not invalidate or prevent any nurse
 962 licensure agreement or other cooperative arrangement between a

963 party state and a nonparty state that is made in accordance with
 964 the other provisions of this compact.

965 (6) This compact may be amended by the party states. An
 966 amendment to this compact does not become effective and binding
 967 upon the party states unless and until it is enacted into the
 968 laws of all party states.

969 (7) Representatives of nonparty states to this compact
 970 shall be invited to participate in the activities of the
 971 commission, on a nonvoting basis, before the adoption of this
 972 compact by all party states.

973 ARTICLE XI

974 CONSTRUCTION AND SEVERABILITY

975 This compact shall be liberally construed so as to
 976 effectuate the purposes thereof. The provisions of this compact
 977 are severable, and if any phrase, clause, sentence, or provision
 978 of this compact is declared to be contrary to the constitution
 979 of any party state or of the United States, or if the
 980 applicability thereof to any government, agency, person, or
 981 circumstance is held invalid, the validity of the remainder of
 982 this compact and the applicability thereof to any government,
 983 agency, person, or circumstance is not affected thereby. If this
 984 compact is declared to be contrary to the constitution of any
 985 party state, the compact shall remain in full force and effect
 986 as to the remaining party states and in full force and effect as
 987 to the party state affected as to all severable matters.

988 Section 8. Subsection (1) of section 464.012, Florida

989 Statutes, is amended to read:

990 464.012 Certification of advanced registered nurse
 991 practitioners; fees.—

992 (1) Any nurse desiring to be certified as an advanced
 993 registered nurse practitioner shall apply to the department and
 994 submit proof that he or she holds a current license to practice
 995 professional nursing or holds an active multistate license to
 996 practice professional nursing pursuant to s. 464.0095 and that
 997 he or she meets one or more of the following requirements as
 998 determined by the board:

999 (a) Satisfactory completion of a formal postbasic
 1000 educational program of at least one academic year, the primary
 1001 purpose of which is to prepare nurses for advanced or
 1002 specialized practice.

1003 (b) Certification by an appropriate specialty board. Such
 1004 certification shall be required for initial state certification
 1005 and any recertification as a registered nurse anesthetist or
 1006 nurse midwife. The board may by rule provide for provisional
 1007 state certification of graduate nurse anesthetists and nurse
 1008 midwives for a period of time determined to be appropriate for
 1009 preparing for and passing the national certification
 1010 examination.

1011 (c) Graduation from a program leading to a master's degree
 1012 in a nursing clinical specialty area with preparation in
 1013 specialized practitioner skills. For applicants graduating on or
 1014 after October 1, 1998, graduation from a master's degree program

1015 shall be required for initial certification as a nurse
 1016 practitioner under paragraph (4)(c). For applicants graduating
 1017 on or after October 1, 2001, graduation from a master's degree
 1018 program shall be required for initial certification as a
 1019 registered nurse anesthetist under paragraph (4)(a).

1020 Section 9. Subsections (1), (2), and (9) of section
 1021 464.015, Florida Statutes, are amended to read:

1022 464.015 Titles and abbreviations; restrictions; penalty.—

1023 (1) Only a person ~~persons~~ who holds a license in this
 1024 state or a multistate license pursuant to s. 464.0095 ~~held~~
 1025 ~~licenses~~ to practice professional nursing ~~in this state~~ or who
 1026 performs ~~are performing~~ nursing services pursuant to the
 1027 exception set forth in s. 464.022(8) may ~~shall have the right to~~
 1028 use the title "Registered Nurse" and the abbreviation "R.N."

1029 (2) Only a person ~~persons~~ who holds a license in this
 1030 state or a multistate license pursuant to s. 464.0095 ~~held~~
 1031 ~~licenses~~ to practice as a licensed practical nurse ~~nurses in~~
 1032 ~~this state~~ or who performs ~~are performing~~ practical nursing
 1033 services pursuant to the exception set forth in s. 464.022(8)
 1034 may ~~shall have the right to~~ use the title "Licensed Practical
 1035 Nurse" and the abbreviation "L.P.N."

1036 (9) A person may not practice or advertise as, or assume
 1037 the title of, registered nurse, licensed practical nurse,
 1038 clinical nurse specialist, certified registered nurse
 1039 anesthetist, certified nurse midwife, or advanced registered
 1040 nurse practitioner or use the abbreviation "R.N.," "L.P.N.,"

1041 "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.R.N.P." or take any other
 1042 action that would lead the public to believe that person was
 1043 authorized by law to practice ~~certified~~ as such or is performing
 1044 nursing services pursuant to the exception set forth in s.
 1045 464.022(8), unless that person is licensed, ~~or certified,~~ or
 1046 authorized pursuant to s. 464.0095 to practice as such.

1047 Section 10. Subsections (1) and (2) of section 464.018,
 1048 Florida Statutes, are amended to read:

1049 464.018 Disciplinary actions.—

1050 (1) The following acts constitute grounds for denial of a
 1051 license or disciplinary action, as specified in ss. s.
 1052 456.072(2) and 464.0095:

1053 (a) Procuring, attempting to procure, or renewing a
 1054 license to practice nursing or the authority to practice
 1055 practical or professional nursing pursuant to s. 464.0095 by
 1056 bribery, by knowing misrepresentations, or through an error of
 1057 the department or the board.

1058 (b) Having a license to practice nursing revoked,
 1059 suspended, or otherwise acted against, including the denial of
 1060 licensure, by the licensing authority of another state,
 1061 territory, or country.

1062 (c) Being convicted or found guilty of, or entering a plea
 1063 of guilty or nolo contendere to, regardless of adjudication, a
 1064 crime in any jurisdiction which directly relates to the practice
 1065 of nursing or to the ability to practice nursing.

1066 (d) Being convicted or found guilty of, or entering a plea

1067 of guilty or nolo contendere to, regardless of adjudication, ~~of~~
 1068 any of the following offenses:

- 1069 1. A forcible felony as defined in chapter 776.
- 1070 2. A violation of chapter 812, relating to theft, robbery,
 1071 and related crimes.
- 1072 3. A violation of chapter 817, relating to fraudulent
 1073 practices.
- 1074 4. A violation of chapter 800, relating to lewdness and
 1075 indecent exposure.
- 1076 5. A violation of chapter 784, relating to assault,
 1077 battery, and culpable negligence.
- 1078 6. A violation of chapter 827, relating to child abuse.
- 1079 7. A violation of chapter 415, relating to protection from
 1080 abuse, neglect, and exploitation.
- 1081 8. A violation of chapter 39, relating to child abuse,
 1082 abandonment, and neglect.

1083 9. For an applicant for a multistate license or for a
 1084 multistate licenseholder under s. 464.0095, a felony offense
 1085 under Florida law or federal criminal law.

1086 (e) Having been found guilty of, regardless of
 1087 adjudication, or entered a plea of nolo contendere or guilty to,
 1088 any offense prohibited under s. 435.04 or similar statute of
 1089 another jurisdiction; or having committed an act which
 1090 constitutes domestic violence as defined in s. 741.28.

1091 (f) Making or filing a false report or record, which the
 1092 nurse licensee knows to be false, intentionally or negligently

1093 failing to file a report or record required by state or federal
 1094 law, willfully impeding or obstructing such filing or inducing
 1095 another person to do so. Such reports or records shall include
 1096 only those which are signed in the nurse's capacity as a
 1097 licensed nurse.

1098 (g) False, misleading, or deceptive advertising.

1099 (h) Unprofessional conduct, as defined by board rule.

1100 (i) Engaging or attempting to engage in the possession,
 1101 sale, or distribution of controlled substances as set forth in
 1102 chapter 893, for any other than legitimate purposes authorized
 1103 by this part.

1104 (j) Being unable to practice nursing with reasonable skill
 1105 and safety to patients by reason of illness or use of alcohol,
 1106 drugs, narcotics, or chemicals or any other type of material or
 1107 as a result of any mental or physical condition. In enforcing
 1108 this paragraph, the department shall have, upon a finding of the
 1109 State Surgeon General or the State Surgeon General's designee
 1110 that probable cause exists to believe that the nurse ~~licensee~~ is
 1111 unable to practice nursing because of the reasons stated in this
 1112 paragraph, the authority to issue an order to compel a nurse
 1113 ~~licensee~~ to submit to a mental or physical examination by
 1114 physicians designated by the department. If the nurse ~~licensee~~
 1115 refuses to comply with such order, the department's order
 1116 directing such examination may be enforced by filing a petition
 1117 for enforcement in the circuit court where the nurse ~~licensee~~
 1118 resides or does business. The nurse ~~licensee~~ against whom the

1119 petition is filed shall not be named or identified by initials
 1120 in any public court records or documents, and the proceedings
 1121 shall be closed to the public. The department shall be entitled
 1122 to the summary procedure provided in s. 51.011. A nurse affected
 1123 by ~~the provisions of~~ this paragraph shall at reasonable
 1124 intervals be afforded an opportunity to demonstrate that she or
 1125 he can resume the competent practice of nursing with reasonable
 1126 skill and safety to patients.

1127 (k) Failing to report to the department any person who the
 1128 nurse licensee knows is in violation of this part or of the
 1129 rules of the department or the board; however, if the nurse
 1130 ~~licensee~~ verifies that such person is actively participating in
 1131 a board-approved program for the treatment of a physical or
 1132 mental condition, the nurse licensee is required to report such
 1133 person only to an impaired professionals consultant.

1134 (l) Knowingly violating any provision of this part, a rule
 1135 of the board or the department, or a lawful order of the board
 1136 or department previously entered in a disciplinary proceeding or
 1137 failing to comply with a lawfully issued subpoena of the
 1138 department.

1139 (m) Failing to report to the department any licensee under
 1140 chapter 458 or under chapter 459 who the nurse knows has
 1141 violated the grounds for disciplinary action set out in the law
 1142 under which that person is licensed and who provides health care
 1143 services in a facility licensed under chapter 395, or a health
 1144 maintenance organization certificated under part I of chapter

1145 641, in which the nurse also provides services.

1146 (n) Failing to meet minimal standards of acceptable and
 1147 prevailing nursing practice, including engaging in acts for
 1148 which the nurse ~~licensee~~ is not qualified by training or
 1149 experience.

1150 (o) Violating any provision of this chapter or chapter
 1151 456, or any rules adopted pursuant thereto.

1152 (2) (a) The board may enter an order denying licensure or
 1153 imposing any of the penalties in s. 456.072(2) against any
 1154 applicant for licensure or nurse ~~licensee~~ who is found guilty of
 1155 violating ~~any provision of subsection (1) of this section or who~~
 1156 ~~is found guilty of violating any provision of s. 456.072(1).~~

1157 (b) The board may take adverse action against a nurse's
 1158 multistate licensure privilege and impose any of the penalties
 1159 in s. 456.072(2) when the nurse is found guilty of violating
 1160 subsection (1) or s. 456.072(1).

1161 Section 11. Paragraph (a) of subsection (2) of section
 1162 464.0195, Florida Statutes, is amended, and subsection (4) is
 1163 added to that section, to read:

1164 464.0195 Florida Center for Nursing; goals.-

1165 (2) The primary goals for the center shall be to:

1166 (a) Develop a strategic statewide plan for nursing
 1167 manpower in this state by:

1168 1. Establishing and maintaining a database on nursing
 1169 supply and demand in the state, to include current supply and
 1170 demand, ~~and future projections; and~~

1171 2. Analyzing the current supply and demand in the state
 1172 and making future projections of such, including assessing the
 1173 impact of this state's participation in the Nurse Licensure
 1174 Compact under s. 464.0095; and

1175 ~~3.2.~~ Selecting from the plan priorities to be addressed.

1176 (4) The center may request from the board, and the board
 1177 must provide to the center upon its request, any information
 1178 held by the board regarding nurses licensed in this state or
 1179 holding a multistate license pursuant to s. 464.0095 or
 1180 information reported to the board by employers of such nurses,
 1181 other than personal identifying information.

1182 Section 12. This act shall take effect December 31, 2018,
 1183 or upon enactment of the Nurse Licensure Compact into law by 26
 1184 states, whichever occurs first.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1083 Agency for Persons with Disabilities

SPONSOR(S): Renner

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	10 Y, 0 N	Brazzell	Brazzell
2) Health Care Appropriations Subcommittee		Fontaine, <i>WGA</i>	Pridgeon 
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Individuals with specified developmental disabilities who meet Medicaid eligibility requirements may choose to receive services in the community through the state’s Medicaid Home and Community-Based Services (HCBS) waiver for individuals with developmental disabilities (known as iBudget Florida), or in an institutional setting known as an Intermediate Care Facility for the Developmentally Disabled (ICF/DD).

Currently, due to demand exceeding available funding, individuals with developmental disabilities who wish to receive iBudget Florida HCBS services administered by the Agency for Persons with Disabilities (APD) are placed on a wait list for services in priority of need, unless they are in a crisis. As of November 1, 2015, 21,459 individuals were waiting for developmental disability waiver services.

The bill amends s. 393.065(5), F.S., to rename the “wait list” as the “waiting list”. It also allows individuals with developmental disabilities needing both waiver and extended foster care child welfare services to be prioritized in Category 2 of the waiver waiting list and, when enrolled on the waiver, to be served by both APD and community-based care organizations. The bill delineates responsibilities of the different entities providing services. The bill also permits waiver enrollment without first being placed on the waiting list for individuals who were on an HCBS waiver in another state and whose parent or guardian is an active-duty military servicemember transferred into the state. The bill provides that individuals remaining on the waiting list after other individuals are added are not substantially affected by agency action and not entitled to a hearing under s. 393.125, F.S., or administrative proceeding under chapter 120, F.S.

The bill permits waiver enrollees to receive increases in their allotted funding for services if the individual has a significant need for transportation to waiver-funded adult day training or employment services and has no other reasonable transportation options.

The bill requires contracted waiver providers to:

- use any agency data management systems to document service provision to agency clients and to have required hardware and software for doing so.
- comply with agency-established requirements for provider staff training and professional development.
- cooperate with requests for information, documentation, and inspection involved in utilization reviews, if the provider is an ICF/DD.

The bill also adds Down syndrome to the definition of “developmental disability.”

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

The bill provides for an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹

Individuals who meet Medicaid eligibility requirements, including individuals who have Down syndrome², may choose to receive services in the community through the state's Medicaid Home and Community-Based Services (HCBS) waiver for individuals with developmental disabilities administered by APD or in an Intermediate Care Facility for the Developmentally Disabled (ICF/DD).

The HCBS waiver, known as iBudget Florida, offers 27 supports and services to assist individuals to live in their community. Examples of services provided include residential habilitation, behavioral services, companion, adult day training, employment services, and physical therapy.³ Services provided through the HCBS waiver enable children and adults to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

While the majority of individuals served by APD live in the community, a small number live in Intermediate Care Facilities for the Developmentally Disabled (ICF/DD). ICF/DD's are defined in s. 393.063(22), F.S., as a residential facility licensed and certified by the Agency for Health Care Administration pursuant to part VIII of ch. 400. ICF/DD's are considered institutional placements.

Home- and Community-Based Services Waiver (iBudget Florida)

The iBudget Florida HCBS waiver program was developed in response to legislative proviso requiring a plan for an individual budgeting approach for improving the management of the waiver program.⁴ iBudget Florida involves the use of an algorithm, or formula, to set individuals' funding allocations for waiver services. The statute provides for individuals to receive additional funding in addition to that allocated through the algorithm under certain conditions (such as if they have a temporary or permanent change in need, or an extraordinary need that the algorithm does not address).⁵ The agency phased in the implementation of

¹ s. 393.063(9), F.S.

² s. 393.0662(1), F.S., provides eligibility for individuals with a diagnosis of Down syndrome.

³ Agency for Persons with Disabilities, Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2015-16, November 2015.

⁴ Agency for Persons with Disabilities, Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget Florida" (February 1 2010), available at <http://apd.myflorida.com/ibudget/rules-regs.htm> (last accessed Dec. 15, 2015).

⁵ s. 393.0662 F.S.

iBudget Florida, with the final areas transitioned from the previous tiered waiver system on July 1, 2013.⁶

However, the iBudget Florida program has been the subject of litigation. In September 2014, in response to a ruling by the 1st District Court of Appeal that that the program's rules were invalid, APD reset approximately 14,000 individuals' budget allocations to higher amounts.⁷ APD began rulemaking to adopt new rules to replace the invalid ones.⁸ The agency, in conjunction with stakeholders, reviewed the algorithm used in the program and has filed for the adoption of rules providing a revised algorithm and related funding calculation methods.⁹

iBudget statutes were amended by the 2015-16 implementing bill to allow additional funding beyond that allocated by the algorithm for transportation to a waiver-funded adult day training program or to employment under certain conditions.¹⁰

Waiver Enrollment Prioritization

As of December 14, 2015, 31,665 individuals were enrolled on the iBudget Florida waiver.¹¹ The majority of waiver enrollees live in a family home with a parent, relative, or guardian.

The Legislature appropriated \$994,793,906 for Fiscal Year 2015-2016 to provide services through the HCBS waiver program, including federal match of \$601,153,957.¹² However, this funding is insufficient to serve all persons desiring waiver services. To enable the agency to remain within legislative appropriations, waiver enrollment is limited. Accordingly, APD maintains a wait list for waiver services. Prioritization for the wait list is provided in s. 393.065(5), F.S., and also in the FY 15-16 implementing bill.¹³

As part of the wait list prioritization process, clients are assigned to one of seven categories. The underlying statute prioritizes need as follows:

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Children from the child welfare system at the time of:
 - Finalization of an adoption with placement in a family home;
 - Reunification with family members with placement in a family home; or
 - Permanent placement with a relative in a family home.
- Category 3 – Includes, but not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
 - Who are at substantial risk of incarceration or court commitment without supports;

⁶ *Supra*, note 3.

⁷ Agency for Persons with Disabilities, iBudget Florida, <http://apd.myflorida.com/ibudget/> (last visited December 15, 2015).

⁸ Department of State, Florida Administrative Register, Vol. 40, No. 207, Oct. 23, 2014, pg. 4703-4706.

⁹ These rules have been challenged as well. DOAH Case No. 15-005803RP.

¹⁰ s. 21, Ch. 2015-222, Laws of Florida.

¹¹ E-mail from Caleb Hawkes, Deputy Legislative Affairs Director, Agency for Persons with Disabilities. RE: Requested information for bill analysis for APD agency bill (Dec. 14, 2015). On file with Children, Families and Seniors Subcommittee.

¹² Line 251, Ch. 2015-221, Laws of Florida.

¹³ s. 20, Ch. 2015-222, Laws of Florida

- Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
- Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available;
- Category 5 – Includes, but not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.¹⁴

As of November 1, 2015, there were 21,459 people on the wait list for HCBS waiver program services. A majority of people on the wait list have been on the list for 5+ years, though some are children receiving services through the school system and others who have been offered waiver services previously but refused them and chose to remain on the wait list.¹⁵

APD HCBS Length of Wait		
Length of Wait	#	%
1 year or less	1,886	8.8
1+ to 2 years	1,534	7.1
2+ to 3 years	1,229	5.7
3+ to 4 years	1,460	6.8
4+ to 5 years	1,522	7.1
5+ to 6 years	1,617	7.5
6+ to 7 years	1,709	8.0
7+ to 8 years	1,634	7.6
8+ to 9 years	1,774	8.3
9+ to 10 years	1,797	8.4
10+ years	5,297	24.7

For several years, while the agency experienced significant deficits, APD was limited to newly enrolling on the waiver only individuals determined to be in crisis. Only since FY 2013-14, when the agency has remained within budget, has the Legislature provided funding to APD to serve individuals from the wait list who were not in crisis but had a high priority for service needs. Since July 1, 2013, APD has enrolled 2,392 such individuals¹⁶.

Wait list prioritization statutory language has been changed in the past two legislative sessions via the implementing bill. For example, Chapter 2015-222, Laws of Florida, allows:

¹⁴ s. 393.065(5), F.S.

¹⁵ Supra, note 3.

¹⁶ *Id.*

- Youth with developmental disabilities who are in extended foster care to be served by both the waiver and the child welfare system. The implementing bill also specified the services that APD and the community-based care lead agencies shall provide such enrollees. Since July 1, 2015, 30 individuals in extended foster care have enrolled on the waiver.
- Individuals who are receiving home and community-based waiver services in other states to be enrolled on the waiver if their parent/guardian is on active duty and transfers to Florida. This bill language was also in the FY 14-15 implementing bill. Since July 1, 2014, 10 individuals have enrolled on the waiver pursuant to this section.¹⁷

Client Data Management System

The Legislature appropriated funding in FY 2015-16 for the development of a client data management system to provide electronic verification of service delivery to recipients by providers, electronic billings for waiver services, and electronic processing of claims.¹⁸ APD must also meet federal requirements for administering the iBudget HCBS waiver, such as tracking, measuring, reporting, and providing quality improvement processes for 32 specific program performance measures in order to ensure the program funding can continue. CMS further requires the state maintain a quality improvement system that requires data collection, data analysis, and reporting. However, APD currently relies heavily on manual processes and disparate systems to collect, analyze, and report data consistently, which is inefficient and error-prone.

The agency is under contract with a vendor to configure a commercial off the shelf product to APD business processes. APD anticipates providers will need to begin using the system during FY 2016-2017. Providers will need standard software and technology in order to log into the system.¹⁹

Direct Service Provider Staff Training and Professional Development

Pursuant to the waiver agreement with the federal government, APD must coordinate, develop, and provide specialized training for providers and their employees to promote health and well-being of individuals served.²⁰ These requirements are currently included in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook. For example, the handbook outlines required basic training and required in-service training and continuing education for direct service providers on topics such as person-centered planning, maintaining health and safety, reporting to the abuse hotline, and first aid. Providers of certain services such as supported employment or supported living are required to take additional pre-service certification training. Training is typically offered through several modalities, such as through the internet, DVD, and live classroom training.²¹

Utilization Review of Intermediate Care Facilities for the Developmentally Disabled

While the majority of individuals served by APD live in the community, a small number live in Intermediate Care Facilities for the Developmentally Disabled (ICF/DD). ICF/DD's are defined

¹⁷ *Supra*, note 11.

¹⁸ SB 2500A, line 265.

¹⁹ Agency for Persons with Disabilities, Agency Analysis of 2016 Act Relating to the Agency for Persons with Disabilities.

²⁰ *Id.*

²¹ Rule 59G-13.070, F.A.C. Handbook may be accessed at <http://apd.myflorida.com/ibudget/>

in s. 393.063(22), F.S., as a residential facility licensed and certified by the Agency for Health Care Administration pursuant to part VIII of ch. 400.²² There are approximately 2,866 Private and Public ICF beds in Florida.²³

ICF/DD's are considered institutional placements rather than community placements. Accordingly, the federal government requires routine utilization reviews for individuals in ICF/DD's to ensure that individuals are not inappropriately institutionalized. Utilization reviews must be conducted by a group of professionals referred to as the Utilization Review Committee, which must include at least one physician and one individual knowledgeable in the treatment of intellectual disabilities.

The Medicaid state plan approved by the federal government provides that APD conduct utilization reviews. APD performs this function through an interagency agreement with AHCA.²⁴

Effect of the Bill:

Home and Community-Based Services Waiver

Waiver Enrollment Prioritization

The bill changes the terms used in the section from "wait list" to "waiting list". The bill makes permanent the implementing bill's temporary changes related to the waiver waiting list prioritization categories. The language provides for:

- Prioritization in Category 2 of individuals with developmental disabilities in extended foster care to be served by both APD and the community-based care (CBC) organizations. The bill also delineates the responsibilities of the different entities providing services to these individuals; specifically, APD is to provide waiver services, including residential habilitation that supports individuals living in congregate settings, and the community-based care lead agency is to fund room and board at the prevailing foster care rate as well as provide case management and related services.
- Waiver enrollment without placement on the waiting list for individuals whose parent or guardian is an active-duty military servicemember.

The bill also specifies that after individuals formerly on the waiting list are enrolled on the waiver, the individuals remaining on the waiting list are not substantially affected by agency action and not entitled to a hearing under s. 393.125, F.S., or administrative proceeding under chapter 120, F.S.

The bill permits rulemaking to specify tools for prioritizing waiver enrollment within categories.

iBudget Florida Funding

The bill also makes permanent the Fiscal Year 2015-16 appropriations implementing bill language that adds transportation needs to the list of the circumstances which may qualify individuals to receive additional funding beyond that calculated through the algorithm.

²³ *Supra*, note 19.

²⁴ *Id.*

Specifically, the agency may grant a funding increase to individuals whose iBudget allocations are insufficient to pay for transportation services to a waiver-funded adult day training program or employment services and who have no other reasonable transportation options. This would allow such individuals to purchase transportation services to attend adult day programs or access employment services.

Client Data Management System

The bill requires APD contractors providing services to use agency data management systems to document service provision to agency clients. Providers would need to have the hardware and software necessary to use these systems, as established by APD. The bill also requires providers to ensure any staff directly serving clients meet APD requirements for training and professional development.

Utilization Review of Intermediate Care Facilities for the Developmentally Disabled

The bill requires APD to conduct utilization reviews for ICF/DD's and requires ICF/DD's to cooperate with these reviews, including requests for information, documentation, and inspection. This will ensure that Florida continues to meet federal requirements for conducting utilization reviews pursuant to the approved Medicaid state plan.

The bill also adds Down syndrome to the definition of "developmental disability."

B. SECTION DIRECTORY:

Section 1: Amends s. 393.063, F.S., relating to definitions.

Section 2: Amends s. 393.065, F.S., relating to application and eligibility determination.

Section 3: Amends s. 393.066, F.S., relating to community services and treatment.

Section 4: Amends s. 393.0662, F.S., relating to individual budgets for delivery of home and community-based services; iBudget system established.

Section 5: Creates s. 393.0679, F.S., relating to utilization review.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact on the private sector is indeterminate. APD will have to establish requirements for training and career development of direct care provider staff and for hardware and software required for providers to use the new agency client data management system. If APD chooses to maintain the training and career development provisions that are presently required by the waiver program and requires hardware and software currently possessed by providers, the bill will have no direct economic impact on providers. It is unknown what training and career development requirements or hardware and software requirements APD will establish, or the extent to which providers will have to acquire hardware and software to meet those requirements.

D. FISCAL COMMENTS:

The Legislature determines the funding available for HCBS waiver services for individuals with developmental disabilities through the appropriations process. APD then serves individuals previously enrolled on the waiver and newly enrolls additional individuals to the extent that funding permits.

APD is currently administering the waiver program in accordance with the waiver enrollment and iBudget allocation requirements of HB 1083, since those provisions are current law through the implementing bill. HB 1083 will make these requirements permanent rather than reverting to the underlying statutory language.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.063, F.S.; revising the
4 definition of the term "developmental disability";
5 amending s. 393.065, F.S.; revising priority
6 classifications for clients on a waiting list for
7 Medicaid home and community-based waiver services;
8 requiring the Agency for Persons with Disabilities to
9 provide waiver services and community-based care lead
10 agencies to provide certain funding and services for
11 specified individuals who need waiver and extended
12 foster care services; requiring an individual to be
13 allowed to receive home and community-based services
14 if his or her parent or guardian is an active-duty
15 servicemember transferred to this state under certain
16 circumstances; providing that individuals remaining on
17 the waiting list are not entitled to a hearing in
18 accordance with federal law or administrative
19 proceeding under state law; amending s. 393.066, F.S.;
20 requiring persons and entities under agency contract
21 to provide community services and treatment to
22 document service delivery using agency data management
23 systems and meet certain technical and training
24 requirements; amending s. 393.0662, F.S.; providing
25 requirements for an increase in iBudget funding
26 allocations for clients needing certain transportation

27 services; creating s. 393.0679, F.S.; requiring the
 28 agency to conduct a utilization review of certain
 29 intermediate care facilities for individuals with
 30 developmental disabilities; providing an effective
 31 date.

32

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

34

35 Section 1. Subsection (9) of section 393.063, Florida
 36 Statutes, is amended to read:

37 393.063 Definitions.—For the purposes of this chapter, the
 38 term:

39 (9) "Developmental disability" means a disorder or
 40 syndrome that is attributable to intellectual disability,
 41 cerebral palsy, autism, spina bifida, Down syndrome, or Prader-
 42 Willi syndrome; that manifests before the age of 18; and that
 43 constitutes a substantial handicap that can reasonably be
 44 expected to continue indefinitely.

45 Section 2. Subsection (5) of section 393.065, Florida
 46 Statutes, is amended, subsections (6) and (7) are renumbered as
 47 subsections (7) and (9), respectively, and amended, and new
 48 subsections (6) and (8) are added to that section, to read:

49 393.065 Application and eligibility determination.—

50 (5) ~~Except as otherwise directed by law, beginning July 1,~~
 51 ~~2010,~~ The agency shall assign and provide priority to clients
 52 waiting for waiver services in the following order:

53 (a) Category 1, which includes clients deemed to be in
 54 crisis as described in rule. Clients assigned to this category
 55 shall be given first priority to receive waiver services.

56 (b) Category 2, which includes individuals on the waiting
 57 ~~children on the wait~~ list who are:

58 1. From the child welfare system with an open case in the
 59 Department of Children and Families' statewide automated child
 60 welfare information system and who are either:

61 a. Transitioning out of the child welfare system at the
 62 finalization of an adoption, a reunification with family
 63 members, a permanent placement with a relative, or a
 64 guardianship with a nonrelative; or

65 b. At least 18 years old but not yet 22 years old and who
 66 need both waiver services and extended foster care services.

67 2. At least 18 years old but not yet 22 years old and who
 68 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
 69 extended foster care system.

70
 71 For individuals who are at least 18 years old but not yet 22
 72 years old and who are eligible under sub-subparagraph 1.b., the
 73 agency shall provide waiver services, including residential
 74 habilitation, and the community-based care lead agency shall
 75 fund room and board at the rate established in s. 409.145(4) and
 76 provide case management and related services as defined in s.
 77 409.986(3)(e). Individuals may receive both waiver services and
 78 services under s. 39.6251. Services may not duplicate services

79 | available through the Medicaid state plan.

80 | (c) Category 3, which includes, but is not required to be
81 | limited to, clients:

82 | 1. Whose caregiver has a documented condition that is
83 | expected to render the caregiver unable to provide care within
84 | the next 12 months and for whom a caregiver is required but no
85 | alternate caregiver is available;

86 | 2. At substantial risk of incarceration or court
87 | commitment without supports;

88 | 3. Whose documented behaviors or physical needs place them
89 | or their caregiver at risk of serious harm and other supports
90 | are not currently available to alleviate the situation; or

91 | 4. Who are identified as ready for discharge within the
92 | next year from a state mental health hospital or skilled nursing
93 | facility and who require a caregiver but for whom no caregiver
94 | is available.

95 | (d) Category 4, which includes, but is not required to be
96 | limited to, clients whose caregivers are 70 years of age or
97 | older and for whom a caregiver is required but no alternate
98 | caregiver is available.

99 | (e) Category 5, which includes, but is not required to be
100 | limited to, clients who are expected to graduate within the next
101 | 12 months from secondary school and need support to obtain or
102 | maintain competitive employment, or to pursue an accredited
103 | program of postsecondary education to which they have been
104 | accepted.

105 (f) Category 6, which includes clients 21 years of age or
 106 older who do not meet the criteria for category 1, category 2,
 107 category 3, category 4, or category 5.

108 (g) Category 7, which includes clients younger than 21
 109 years of age who do not meet the criteria for category 1,
 110 category 2, category 3, or category 4.

111
 112 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
 113 waiting ~~wait~~ list of clients placed in the order of the date
 114 that the client is determined eligible for waiver services.

115 (6) The agency shall allow an individual who meets the
 116 eligibility requirements under s. 393.065(1) to receive home and
 117 community-based services in this state if the individual's
 118 parent or legal guardian is an active-duty military
 119 servicemember and if at the time of the servicemember's transfer
 120 to this state, the individual was receiving home and community-
 121 based services in another state.

122 (7)-(6) The client, the client's guardian, or the client's
 123 family must ensure that accurate, up-to-date contact information
 124 is provided to the agency at all times. Notwithstanding s.
 125 393.0651, in lieu of an annual report, the agency shall send an
 126 annual letter requesting updated information from the client,
 127 the client's guardian, or the client's family. The agency shall
 128 remove from the waiting ~~wait~~ list any individual who cannot be
 129 located using the contact information provided to the agency,
 130 fails to meet eligibility requirements, or becomes domiciled

131 outside the state.

132 (8) Once individuals on the waiting list are selected to
 133 receive waiver services pursuant to this section, an individual
 134 remaining on the waiting list is deemed not to have been
 135 substantially affected by agency action and therefore is not
 136 entitled to a hearing under s. 393.125 or an administrative
 137 proceeding under chapter 120.

138 (9)~~(7)~~ The agency and the Agency for Health Care
 139 Administration may adopt rules specifying application
 140 procedures;~~7~~ criteria associated with waiting-list ~~wait-list~~
 141 categories;~~7~~ procedures for administering the waiting ~~wait~~ list,
 142 including, but not limited to, tools for prioritizing waiver
 143 enrollment within categories; and eligibility criteria as needed
 144 to administer this section.

145 Section 3. Subsection (2) of section 393.066, Florida
 146 Statutes, is amended to read:

147 393.066 Community services and treatment.--

148 (2) All services needed shall be purchased instead of
 149 provided directly by the agency, when such arrangement is more
 150 cost-efficient than having those services provided directly. All
 151 purchased services must be approved by the agency. All persons
 152 or entities under contract with the agency to provide services
 153 shall use agency data management systems to document service
 154 provision to clients. Contracted persons and entities shall meet
 155 the minimum hardware and software technical requirements for use
 156 of such systems established by the agency. Such persons or

157 entities shall also meet requirements for training and
 158 professional development of staff providing direct services to
 159 clients as established by the agency.

160 Section 4. Paragraph (b) of subsection (1) of section
 161 393.0662, Florida Statutes, is amended to read:

162 393.0662 Individual budgets for delivery of home and
 163 community-based services; iBudget system established.—The
 164 Legislature finds that improved financial management of the
 165 existing home and community-based Medicaid waiver program is
 166 necessary to avoid deficits that impede the provision of
 167 services to individuals who are on the waiting list for
 168 enrollment in the program. The Legislature further finds that
 169 clients and their families should have greater flexibility to
 170 choose the services that best allow them to live in their
 171 community within the limits of an established budget. Therefore,
 172 the Legislature intends that the agency, in consultation with
 173 the Agency for Health Care Administration, develop and implement
 174 a comprehensive redesign of the service delivery system using
 175 individual budgets as the basis for allocating the funds
 176 appropriated for the home and community-based services Medicaid
 177 waiver program among eligible enrolled clients. The service
 178 delivery system that uses individual budgets shall be called the
 179 iBudget system.

180 (1) The agency shall establish an individual budget,
 181 referred to as an iBudget, for each individual served by the
 182 home and community-based services Medicaid waiver program. The

183 funds appropriated to the agency shall be allocated through the
 184 iBudget system to eligible, Medicaid-enrolled clients. For the
 185 iBudget system, eligible clients shall include individuals with
 186 ~~a diagnosis of Down syndrome or~~ a developmental disability as
 187 defined in s. 393.063. The iBudget system shall be designed to
 188 provide for: enhanced client choice within a specified service
 189 package; appropriate assessment strategies; an efficient
 190 consumer budgeting and billing process that includes
 191 reconciliation and monitoring components; a redefined role for
 192 support coordinators that avoids potential conflicts of
 193 interest; a flexible and streamlined service review process; and
 194 a methodology and process that ensures the equitable allocation
 195 of available funds to each client based on the client's level of
 196 need, as determined by the variables in the allocation
 197 algorithm.

198 (b) The allocation methodology shall provide the algorithm
 199 that determines the amount of funds allocated to a client's
 200 iBudget. The agency may approve an increase in the amount of
 201 funds allocated, as determined by the algorithm, based on the
 202 client having one or more of the following needs that cannot be
 203 accommodated within the funding as determined by the algorithm
 204 and having no other resources, supports, or services available
 205 to meet the need:

206 1. An extraordinary need that would place the health and
 207 safety of the client, the client's caregiver, or the public in
 208 immediate, serious jeopardy unless the increase is approved. An

209 extraordinary need may include, but is not limited to:

210 a. A documented history of significant, potentially life-
 211 threatening behaviors, such as recent attempts at suicide,
 212 arson, nonconsensual sexual behavior, or self-injurious behavior
 213 requiring medical attention;

214 b. A complex medical condition that requires active
 215 intervention by a licensed nurse on an ongoing basis that cannot
 216 be taught or delegated to a nonlicensed person;

217 c. A chronic comorbid condition. As used in this
 218 subparagraph, the term "comorbid condition" means a medical
 219 condition existing simultaneously but independently with another
 220 medical condition in a patient; or

221 d. A need for total physical assistance with activities
 222 such as eating, bathing, toileting, grooming, and personal
 223 hygiene.

224

225 However, the presence of an extraordinary need alone does not
 226 warrant an increase in the amount of funds allocated to a
 227 client's iBudget as determined by the algorithm.

228 2. A significant need for one-time or temporary support or
 229 services that, if not provided, would place the health and
 230 safety of the client, the client's caregiver, or the public in
 231 serious jeopardy, unless the increase is approved. A significant
 232 need may include, but is not limited to, the provision of
 233 environmental modifications, durable medical equipment, services
 234 to address the temporary loss of support from a caregiver, or

235 special services or treatment for a serious temporary condition
 236 when the service or treatment is expected to ameliorate the
 237 underlying condition. As used in this subparagraph, the term
 238 "temporary" means a period of fewer than 12 continuous months.
 239 However, the presence of such significant need for one-time or
 240 temporary supports or services alone does not warrant an
 241 increase in the amount of funds allocated to a client's iBudget
 242 as determined by the algorithm.

243 3. A significant increase in the need for services after
 244 the beginning of the service plan year that would place the
 245 health and safety of the client, the client's caregiver, or the
 246 public in serious jeopardy because of substantial changes in the
 247 client's circumstances, including, but not limited to, permanent
 248 or long-term loss or incapacity of a caregiver, loss of services
 249 authorized under the state Medicaid plan due to a change in age,
 250 or a significant change in medical or functional status which
 251 requires the provision of additional services on a permanent or
 252 long-term basis that cannot be accommodated within the client's
 253 current iBudget. As used in this subparagraph, the term "long-
 254 term" means a period of 12 or more continuous months. However,
 255 such significant increase in need for services of a permanent or
 256 long-term nature alone does not warrant an increase in the
 257 amount of funds allocated to a client's iBudget as determined by
 258 the algorithm.

259 4. A significant need for transportation services to a
 260 waiver-funded adult day training program or to waiver-funded

261 employment services when such need cannot be accommodated within
 262 the funding authorized by the client's iBudget amount without
 263 affecting the health and safety of the client, when public
 264 transportation is not an option due to the unique needs of the
 265 client, and when no other transportation resources are
 266 reasonably available.

267
 268 The agency shall reserve portions of the appropriation for the
 269 home and community-based services Medicaid waiver program for
 270 adjustments required pursuant to this paragraph and may use the
 271 services of an independent actuary in determining the amount of
 272 the portions to be reserved.

273 Section 5. Section 393.0679, Florida Statutes, is created
 274 to read:

275 393.0679 Utilization review.—The agency shall conduct
 276 utilization review activities in public and private intermediate
 277 care facilities for individuals with developmental disabilities
 278 as necessary to meet the requirements of the approved Medicaid
 279 state plan and federal law. All private intermediate care
 280 facilities for individuals with developmental disabilities shall
 281 comply with any requests for information and documentation and
 282 permit any inspections necessary for the agency to conduct such
 283 activities.

284 Section 6. This act shall take effect July 1, 2016.

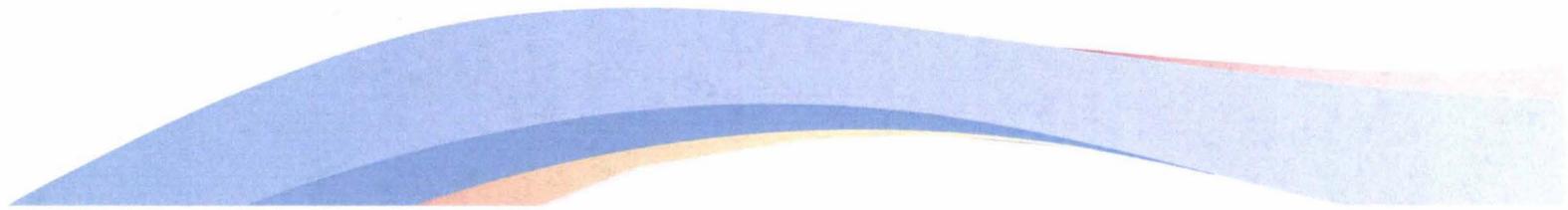
Agency for Health Care Administration Office of Inspector General

Presentation on Data Analytics to
House Health Care Appropriations Subcommittee

January 20, 2016



Better Health Care for All Floridians
AHCA.MyFlorida.com



Briefing Summary

- Data analytics: What it is and why it's necessary.
- Data Analytics: How the OIG is using it to detect fraud, waste, and program abuse in Medicaid.
- Future use of data analytics in a predominant managed care environment.
- Costs and benefits.



Medicaid Data Overview

- 17 Managed Care Organizations (MCOs)
- 166,382 Providers
 - 69 Provider Types
 - 218 Specialties
- 4,081,822 Recipients
- 48 Provider Handbooks
- 31 Fee Schedules
- Controls in Social Security Act, Chapter 409 Parts I –V FL Statutes, Chapter 59G, FAC, and Medicaid State Plan



Health Care Data Overview

- 27,800 Procedure Codes
 - Current Procedural Terminology (CPT) codes
 - Healthcare Common Procedures Coding System (HCPCS) codes
 - ~1,400 DME codes
 - ~ 29,110 active NDC codes
- International Classification of Disease (ICD) codes
 - ICD-9: 18,273
 - ICD-10: 69,823



Legacy Model of Fraud, Waste, and Program Abuse Detection in the Medicaid Arena

The following tools were generally used:

- Hotlines / Whistleblowers
- EOMBs (low ROI)
- Investigative leads from internal and external sources
- Post-payment review
- Post-payment audits
- Pre-payment reviews
- FMMIS system edits and system audits
- Data mining of FMMIS claims data



Legacy Data Mining Included:

- Decision Support System Profiler
- FMMIS/DSS Internal Surveillance Tools
- First Health Pharmacy Reports
- Business Objects Ad Hoc Reports
- “1.5” Report
- Early Warning System Reports



Data Analytics

- The science of examining raw data with the purpose of drawing conclusions about that information.
- In the context of Medicaid fraud prevention and detection, Florida has billions of rows of data with hundreds of millions of data combinations in multiple data stores and formats that may be used to find improper payments made to Medicaid providers.
- High-performance, computer-assisted analytics is necessary to process that much data in order to find important elements otherwise latent to OIG Medicaid Program Integrity investigators and auditors.



Purposes for State's Procurement of Data Analytics

- To provide enhanced detection capabilities that exceeded internal capacity and capability,
- To promptly identify improper payments associated with fraud, waste, and program abuse across all provider types and allow prevention opportunities to be engaged, and
- To enhance the capability of the state to share fraud and program abuse information with other state agencies, MFCU, and CMS.



Data Analytics Allows:

- The OIG Medicaid Program Integrity component to be more effective in the reactive state, determining where to deploy audit resources to identify and recover the greatest volume of improper payments in the FFS environment.
- The OIG Medicaid Program Integrity component to be more effective in the proactive state, determining which Medicaid provider payments may require intervention prior to being paid.



AHCA Data Foundation

- Analyzed 800+ million claim lines
- 9 Data Sources Integrated in Year 1

Source	Description	Year Integrated
FMMIS/DSS	FFS Claims, Encounter & Provider	Year 1
LEIE	Federal Exclusion List	Year 1
EPLS	Federal Exclusion List	Year 1
SAM	Federal Exclusion List	Year 1
PNV	Managed Care Provider Networks	Year 1
FACTS	Medicaid Case Management	Year 1 and 2
Versa Regulation	Licensing	Year 1
SunBiz	Florida Corporate Filings	Year 1
Private Business Data	Corporate Ownership and Criminal History	Year 1
TransUnion Data	Financial, Known Associates, Criminal History, Multi-State Licensure	Year 2
DOH	Licensure	Year 2
DBPR	Licensure	Year 2
DMS People First	State Employment	Year 2
DOC	Incarcerations and Parole	Year 2

Analytics

- 75 SAS personnel (PhD's, analysts, clinicians and project staff) supported the project in Year 1
- Over 800 investigative scenarios deployed
 - Scenarios from private sector and public sector experience. Bringing national experience to FL
 - Tuning, eliminating, customizing
- Algorithm Factory - AHCA/SAS Innovation
 - Innovative process for AHCA/SAS to develop and deploy ideas

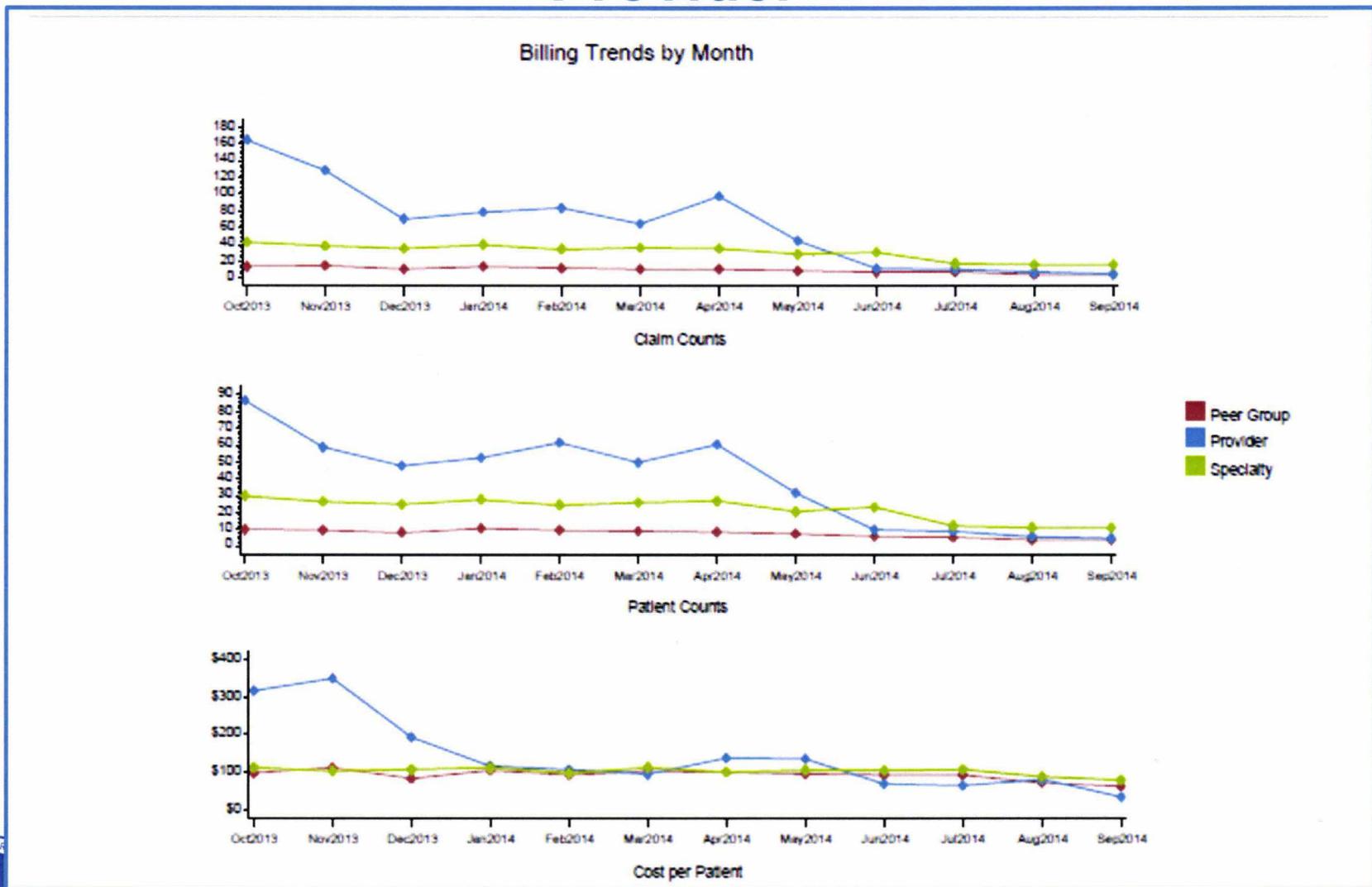
Data Analytics: How the OIG is Using It

- In August 2015 (with full implementation of the system) over 10,000 SAS-provided alerts/leads were relayed to the AHCA OIG.
- Subsequently, OIG narrowed the focus to get down to 4,613 alerts.

Queue	Total Alerts
Allied Health	44
Assistive Care	1
Behavioral Health	55
Dental	45
Developmental Disability	56
Diagnostic Services	9
DME	7
Facilities	31
Home Health	9
Managed Care	(not currently active)
Other	92
Pharmacy	531
Practitioners	3,711
Recipients	(not currently active)
Transportation	6
Waivers	16



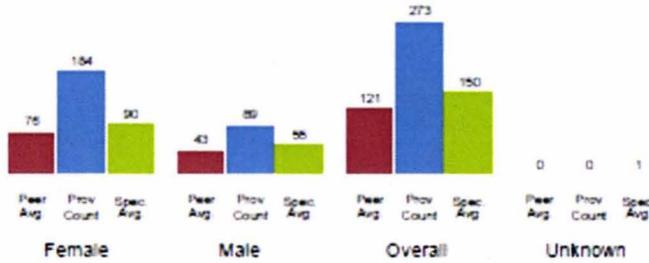
Sample of SAS-provided Alert on Medicaid Provider



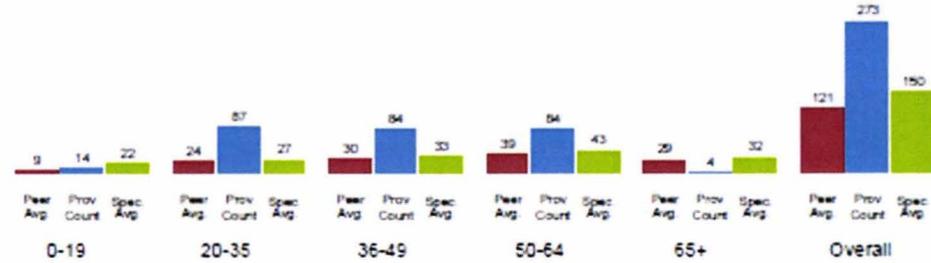
Provider Alert Related to Practitioner (Blue Column)

Billing Comparisons by Gender and Age

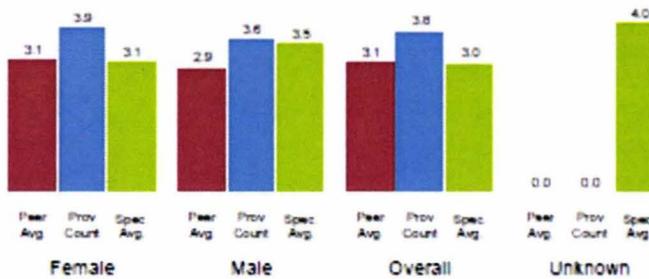
Patient Count by Gender



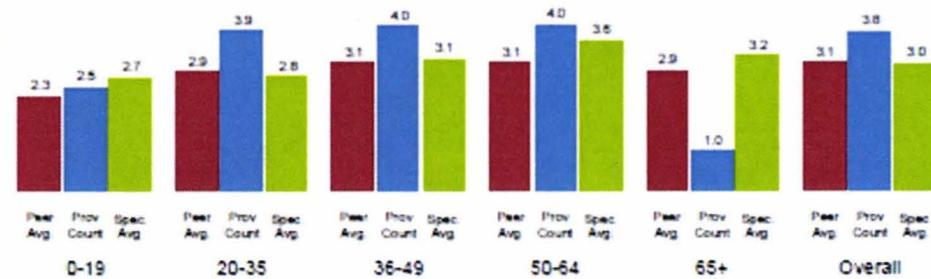
Patient Count by Age



Services per Patient by Gender



Services per Patient by Age



Cost per Patient by Gender



Cost per Patient by Age



Outlier Identification

SAS® Social Network Analysis

Details SAS Social Network Analysis

z Corporation Events SAS Entity Provider Top Diagnoses Provider Top Procedures Scenario Summary Provider Violations Claim Violations Claim Line Violations Investigator Comments

Scenario Description	Potential Behavior	Scenario Level	Scenario Weight	Normalized Severity	Number Violations	Scenario Name
% of claims paid with a suspicious modifier for this month and this billing provider is an outlier vs. peer group.	misuse	Billing	0.5	0.01	36	PFB1A3 PCTMOD
% of claims paid with a suspicious modifier for this month and this provider is an outlier vs. peer group.	misuse	Rendering	0.5	0.05	42	PRF1A3 PCTMOD
Duplicate claim line with same provider	duplicate billing	Claim Line	1	0	26	PRF COMPLETE DUP
Duplicate claim line with same provider	duplicate billing	Claim Line	1	0	26	PRF COMPLETE DUP
Diagnosis is inconsistent with gender per coding guidelines.		Claim	0.5	0	1	PRF DIAGGEN
Diagnosis is inconsistent with gender per coding guidelines.		Claim	0.5	0	1	PRF DIAGGEN
Doctor office visit on the same day as patient was supposed to be in hospital.	fake claim, double billing	Claim	1	0	72	PRF HOSPMEE
Doctor office visit on the same day as patient was supposed to be in hospital.	fake claim, double billing	Claim	1	0	68	PRF HOSPMEE
Data shows this billing provider has too many instances of a professional claim occurring on the same day as inpatient care for same patient vs. norm.		Billing	1	0.11	61	PRF HOSPMEE BIL
Data shows this provider has too many instances of a professional claim occurring on the same day as inpatient care for same patient vs. norm.		Rendering	1	0.15	77	PRF HOSPMEE PRV

1 - 10 of 10 results



External Data Contributes to Risk Scoring

SAS® Social Network Analysis

Search

Filters

- Data Matches
- Alert Status
- Investigator
- Provider Name
- Provider Medicaid ID
- Provider Peer Group
- Provider Specialty
- Provider Type
- Provider City
- Provider County
- Provider State
- License ID
- NPI
- Potential Billing Amount Loss
- Potential Rendering Amount Loss

Data Matches	Alert Status	Investigator	Provider Name	Provider Medicaid ID	Provider Peer Group
D&B:Liens Indicator, Suit Indicator, Judgements Indicator	Assigned	Anthony Philmon	[REDACTED]	[REDACTED]	01
D&B:Liens Indicator, Suit Indicator, Judgements Indicator	Assigned	Cindy Phillips	[REDACTED]	[REDACTED]	01
D&B:Liens Indicator, Judgements Indicator, Sunbiz Dissolution	Assigned	James Sauls	[REDACTED]	[REDACTED]	01
D&B:Suit Indicator, Sunbiz Dissolution	Assigned	Anthony Philmon	[REDACTED]	[REDACTED]	02
D&B:Liens Indicator, Judgements Indicator	Assigned	Lena Dennard	[REDACTED]	[REDACTED]	96
D&B:Liens Indicator, Judgements Indicator, Sunbiz Dissolution	Assigned	Shannon Bagenholm	[REDACTED]	[REDACTED]	03
Sunbiz Dissolution	Assigned	James Sauls	[REDACTED]	[REDACTED]	93

1 - 20 of 3711 results

1 2 3 ... 186 20

SAS



Future: Managed Care Plus Smaller Fee-for-Service Medicaid Population

- Florida FFS still larger than entire Medicaid programs of over 20 other states,
- FFS still has over \$880,000,000 in waiver services delivered annually,
- FFS look-back period of 5-years includes high volume claim years (2013-2014 experienced 127,000,000 claims) and millions in recoverable dollars, and
- Recovery of paid claims must occur while also monitoring encounters to assist managed care plans' detection efforts.



Costs / Results

as of 1/13/2016

Project Costs:

Current Total Paid to Date:	\$2,578,250.00
Projected Paid Federal Draw Down for Year 2:	\$2,641,500.00
Total Amount Paid By Federal Draw Down (14-15 and 15-16):	\$2,578,250.00
Total Amount Paid By State Funds (14-15 and 15-16):	\$1,484,250.00
Total Contract Amount (14-15 and 15-16):	\$5,630,000.00

Results Realized Since Implementation in August 2015:

- **126 Suspicious provider alerts**
- **83 assignments for audit or review**
- **3 Medicaid provider terminations effected**
- **131 Medicaid providers placed on payment restrictions**
- **TOTAL Prevention Valuation (as of 1/13/2016): \$1,383,034.83**
- **Audit-based collections to follow completion of audits**



Recoveries and Prevention*

FY 2011-12	Benefits	Costs
Recovery	62.2	7.9
Prevention	27.9	5.3
Total:	90.1	13.2
FY 2012-13	Benefits	Costs
Recovery	79.5	10.4
Prevention	21.9	7.0
Total:	101.4	17.4
FY 2013-14	Benefits	Costs
Recovery	88.0	12.0
Prevention	29.4	4.4
Total:	117.5	16.4
FY 2014-15	Benefits	Costs
Recovery	82.7	10.35
Prevention	35.1	5.45
Total:	117.80	15.8

Benefits= Sums recovered or costs avoided by integrity and compliance efforts

Costs= Personnel costs and equipment to conduct operations





Child Welfare Data Analytics

Presentation to the Health Care Appropriations Subcommittee

January 20, 2016

Project History

2013 – Department conducted and funded the Child Fatality Data Discovery and Analytics project

2014-2015 – Legislature appropriated \$2 Million --- advanced the work from the Child Fatality Data Discovery and Analytics Project

2015-2016 – Legislature appropriated \$1.5 Million --- extended the analysis beyond examination of child fatalities to include repeat reporting and repeat child maltreatment. The Legislature also appropriated \$500k to implement Results-Oriented Accountability

Goals of Data Analytics

Use data driven decisions to:

- Understand and quantify the risks that children face
- Understand how the agency can make policy to mitigate, and where possible, remove those risks
- Construct a comprehensive plan operationalizing data analytics



2014-2015

Child Fatality Analytics Project

- Affirmed current practice/review approaches
- Provided insights for next steps

Data Assessment Report

- Provided recommendations to address data quality, integration and fidelity within the Department

Operationalizing Data Analytics Plan

- Recommendations to formalize data analytics processes within the Department



Child Fatality Analytics Project

Factors that Increase Risk

- Children under the age of three are most vulnerable, especially 0 to 6 months
- General abuse history
- Prior History Count - Rates for fatality increase as the number of previous maltreatment incidents increase
- Perpetrators who were victims of abuse or neglect
- Complex mix of maltreatment types



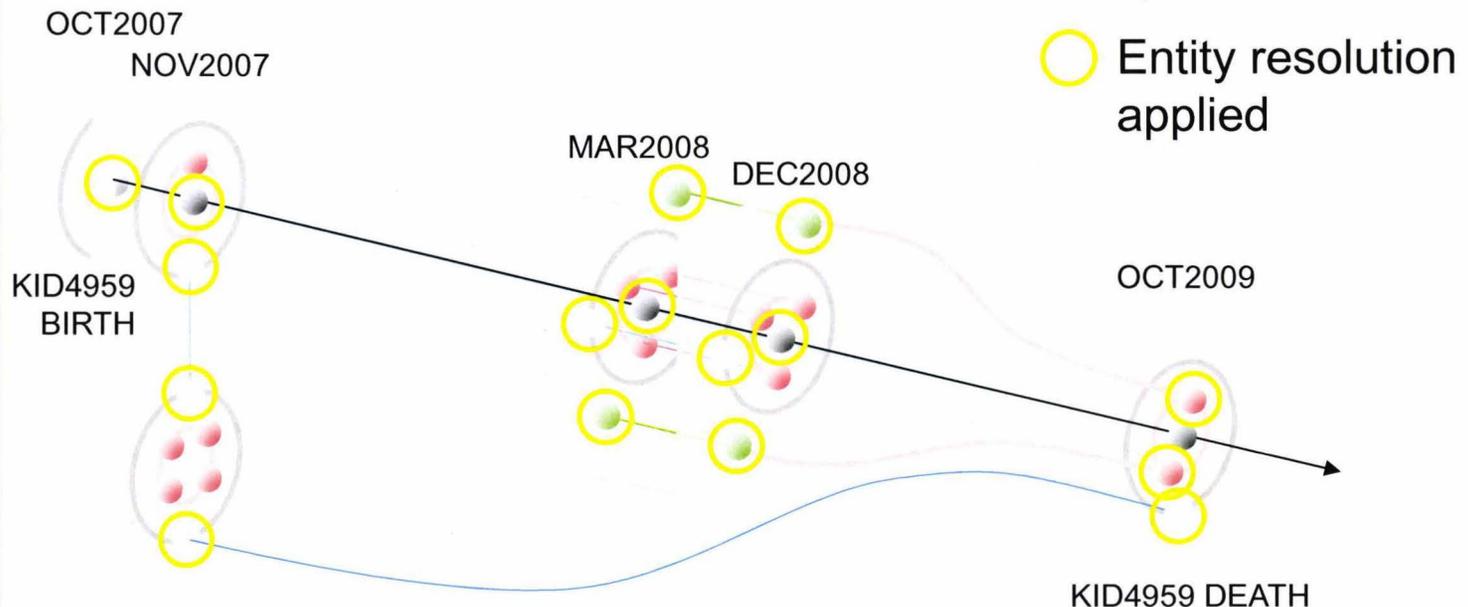
Next Steps from 2014-2015

- Enhance data quality
- Implement data linkages to other agencies and Vital Statistics
- Target interventions for parents who have been victims of maltreatments as children
- Study re-maltreatment risk among children known to the child welfare system
- Enhance prevention programs

Child Fatality Analytics Project

What we learned about our Data

Kid 4959



MERGED EVENT HISTORY

- This network analysis is critical to build a complete picture of risk.
- The Department is developing an enterprise Data Management Strategy to improve data quality, data entry fidelity and FSFN system utilization.



Operationalizing Data Analytics Plan Recommendations

- Continue exploratory efforts to discover patterns around positive and negative outcomes in the areas of child safety, permanency and well-being
- Develop Processes within the Department to operationalize analytics
 - Data management strategies
 - Data clean up initiatives
- Technology updates to operationalize analytics
 - Updates to Department systems to interface with other data sources
 - Create a location for analytics environment
- Policy updates for data sharing
- Organizational Changes
 - Increase skills of staff in data analytics

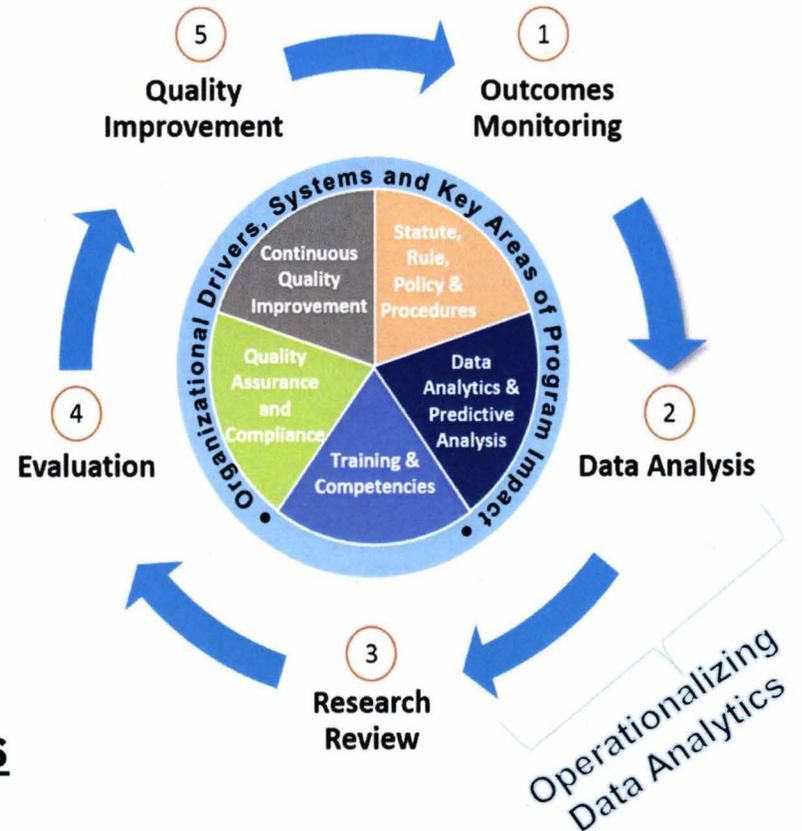
2015-2016

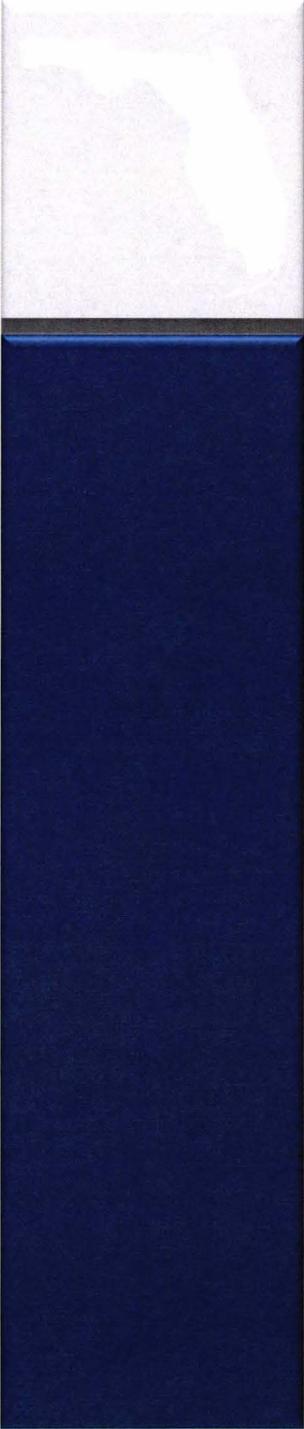
Expansion of Data Analytics Project

- Expand Child Fatality Analytics Project
 - Including additional data sources
- Provide exploratory analysis and develop a predictive model for repeat reporting and maltreatment

Operationalizing Data Analytics

- Utilize the Results-Oriented Accountability framework to operationalize data analytics

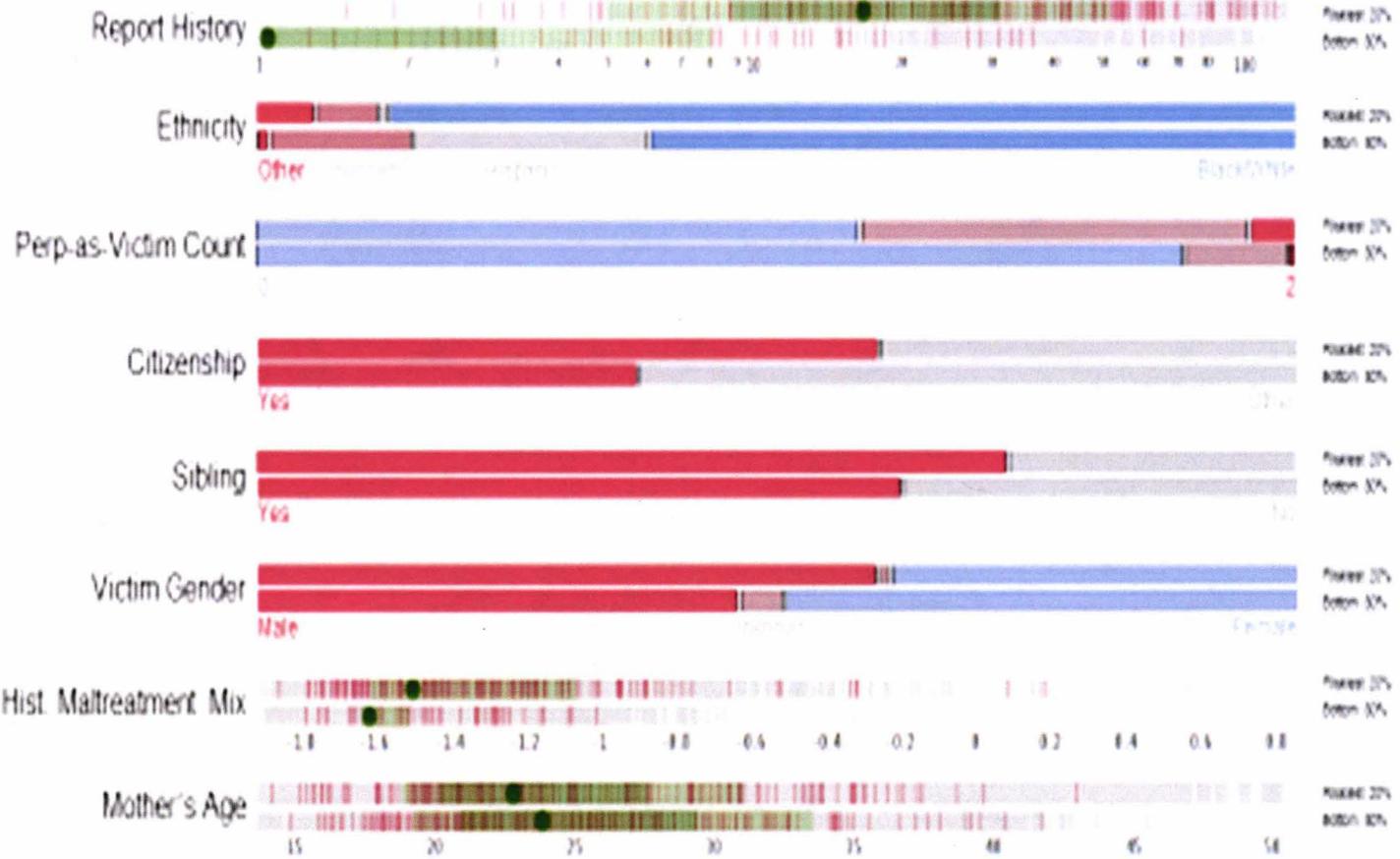




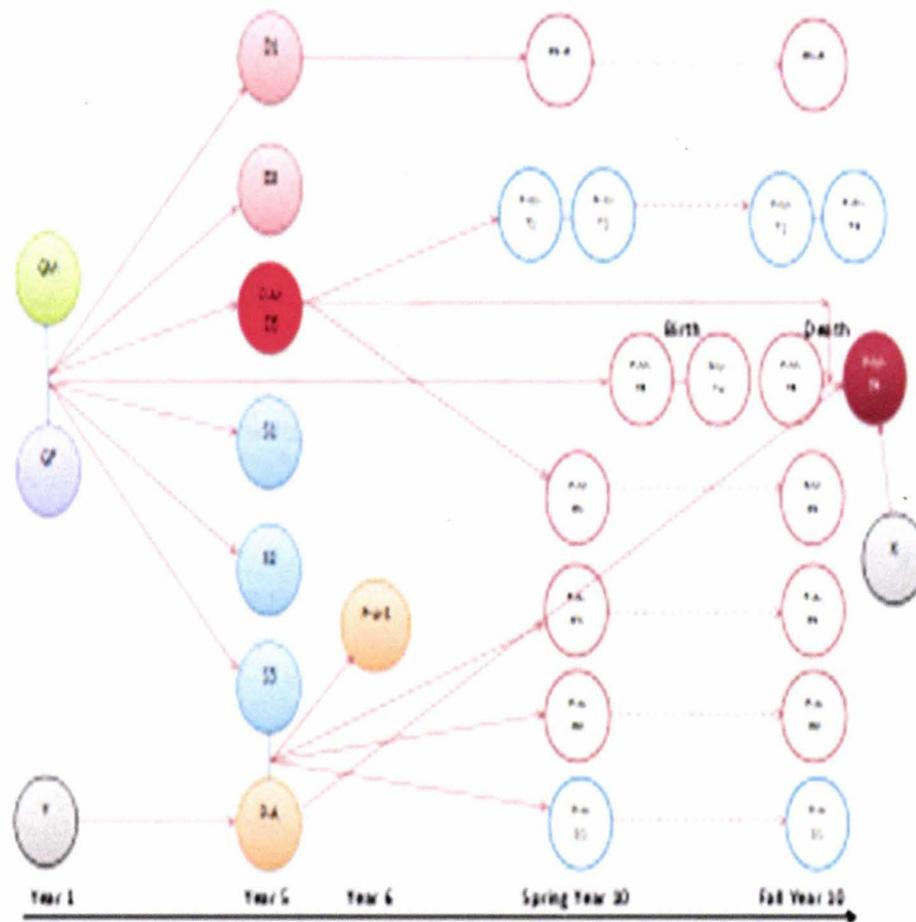
2015-2016

- Reassessing our sample population for Rapid Safety Feedback
- Developing data management strategies
- Expanding Child Abuse and Neglect Prevention Team

EARLY RISK SEGMENTATION OVERALL VIEW



CASE STUDY



After counting all roles, at the time of the fatality event, total number of historical reports associated with the deceased child was 127. There were also two perpetrators who were victims earlier in their lives (mother and the aunt) and many counts of intergenerational maltreatment. Report histories and perpetrator-as-victim count are the two strongest predictors in the maltreatment fatality models.

Janice Thomas, Assistant Secretary for Child Welfare

janice.thomas@myflfamilies.com



**FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES**
MYFLFAMILIES.COM



Partnership for Strong Families' Resource Center Model

A Prevention Strategy that Works

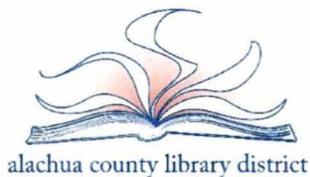
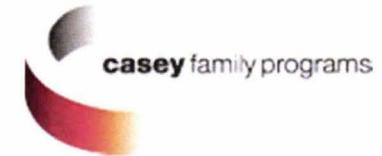
Jenn Petion, M.A., A.P.R.

Director of Community and Government Relations

Partnership for Strong Families



Our Communities of Hope



City of
Chiefland





Our Community of Hope

Doors Open: 2009



The Library Partnership, serving 32609, 32641 and 32601 since July, 2009





Our Community of Hope

Expanding Our Model: 2012



SWAG Family Resource Center, serving 32607 and 32608 since June, 2012





Our Community of Hope

Expanding Our Model: 2013



Cone Park Library Resource Center, serving 32641 since December, 2013





Our Community of Hope

Expanding Our Model: 2015



Tri-County Community Resource Center, serving Dixie, Levy and Gilchrist Counties since April 2015.





Our Approach

1. Prevent child maltreatment

- Reduce risk factors
- Increase Protective Factors

2. Meet families where they are

- In their neighborhood
- At their current readiness to receive services and level of need
- Trust that they know what they need and are ready for

3. Facilitate safe, stable and nurturing relationships

- Promote children's healthy brain development as well as their physical, emotional, social, behavioral and intellectual capacities
- Provide buffers for parents who would otherwise be at risk of abusing or neglecting their children
- Provide resources, supports and coping strategies

4. Support family strengthening and community well-being using a socioecological perspective





Preparation

Provide Place-Based Services in Hotspot Neighborhoods

- Data Mapping to determine hotspot areas by zip code
- Draw on existing community resources that can provide services in a one-stop shop

Gain Community Input at the Start & All Along the Way

- Community Surveys with residents and prospective patrons
- Visioning Sessions with community leaders
- Community Dinners and Advisory Councils of patrons
- Quarterly Meetings with partners

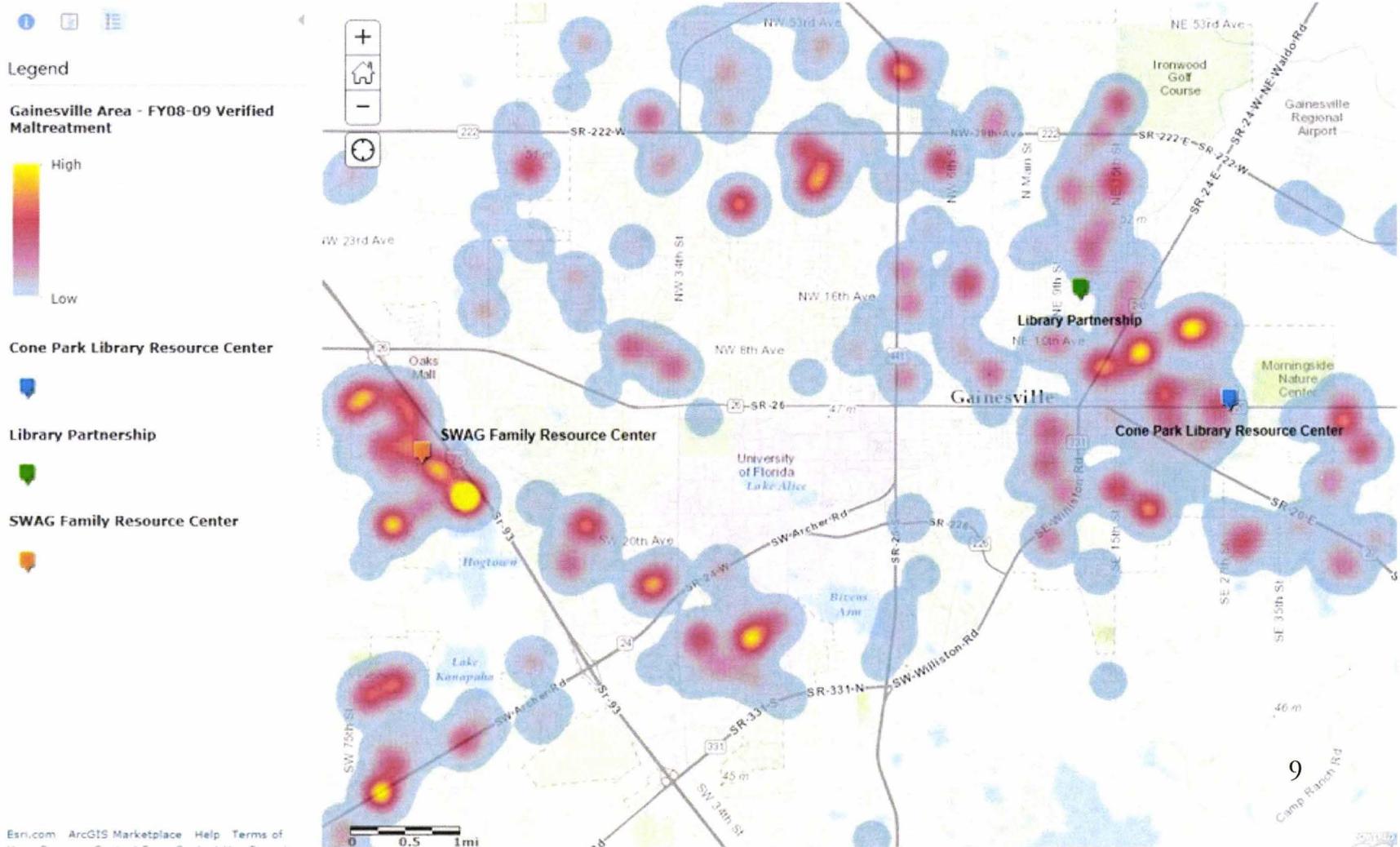
Partner. Partner. Partner.

- One to two Operating Partners (City or County, Library District, Grassroots Organizations)
- 30-40 partners make each center possible



Heat Map Prepared by Casey Family Programs

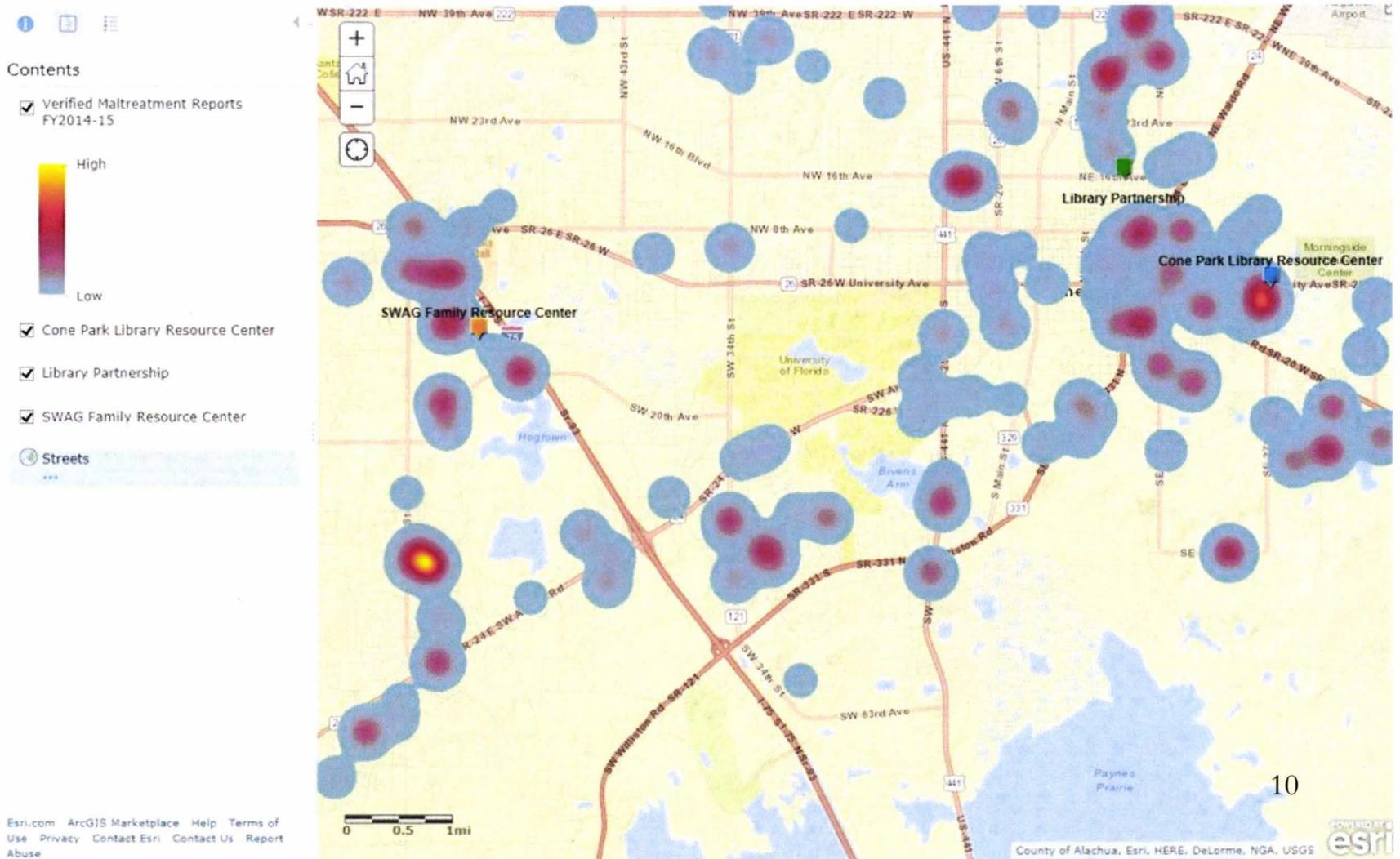
Gainesville, Florida FY08-09 Verified Maltreatment Incidents And Resource Center Locations





Heat Map Prepared by Casey Family Programs

Gainesville, Florida FY14-15 Verified Maltreatment Incidents And Resource Center Locations





Return on Investment

Last year, PSF welcomed more than 30,000 patrons to the Resource Centers and provided more than 25,000 services, each of which is tied to a Protective Factor

If the children represented by those patrons had not benefitted from the services available, they would have been at greater risk for maltreatment and removal.

Foster care board rate: \$429-515/month = **\$5148-\$6180/year per child**
+ Case management services
+ Services provided to the family
+ Court and attorney fees

\$Thousands/year/child removed

If each center serves several thousand families per year, and even 10% of them are diverted from the formal child welfare system, the return is exponential.



For additional information:

www.pfsf.org

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352-244-1561