

## CHAPTER 2014-118

### Committee Substitute for Committee Substitute for House Bill No. 511

An act relating to cancer control and research; amending s. 1004.435, F.S.; revising definitions; revising the membership of the Florida Cancer Control and Research Advisory Council and selection of the council chairperson; authorizing renewal of member terms; revising compensation of council members; renaming the Florida Cancer Plan; requiring the council to collaborate with the Florida Biomedical Research Advisory Council to formulate and review a statewide research plan; requiring the council to develop and review a statewide treatment plan; deleting council, Board of Governors, and State Surgeon General duties relating to the awarding of grants and contracts for cancer-related programs; deleting council duties relating to the development of written summaries of treatment alternatives; deleting financial aid provisions and the Florida Cancer Control and Research Fund; amending ss. 458.324, and 459.0125, F.S.; conforming provisions; providing an effective date.

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

Section 1. Paragraphs (d) and (e) of subsection (3) and subsections (4), (5), and (6) of section 1004.435, Florida Statutes, are amended to read:

1004.435 Cancer control and research.—

(3) DEFINITIONS.—The following words and phrases when used in this section have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

~~(d) “Fund” means the Florida Cancer Control and Research Fund established by this section.~~

~~(e) “Qualified nonprofit association” means any association, incorporated or unincorporated, that has received tax-exempt status from the Internal Revenue Service.~~

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(a) There is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc., the Florida Cancer Control and Research Advisory Council. The council shall consist of 15 ~~35~~ members, which includes the chairperson, all of whom must be residents of this state. The State Surgeon General or his or her designee within the Department of Health shall be one of the 15 members. ~~All~~ Members, except those appointed by the Governor, the Speaker of the House of Representatives, or ~~and~~ the President of the Senate, must be appointed by the chief executive officer of the institution or

~~organization represented, or his or her designee Governor. At least one of the members appointed by the Governor must be 60 years of age or older. One member must be a representative of the American Cancer Society; one member must be a representative of the Florida Tumor Registrars Association; one member must be a representative of the Sylvester Comprehensive Cancer Center of the University of Miami; one member must be a representative of the Department of Health; one member must be a representative of the University of Florida Shands Cancer Center; one member must be a representative of the Agency for Health Care Administration; one member must be a representative of the Florida Nurses Association who specializes in the field of oncology and is not from an institution or organization already represented on the council; one member must be a representative of the Florida Osteopathic Medical Association who specializes in the field of oncology; one member must be a representative of the American College of Surgeons; one member must be a representative of the School of Medicine of the University of Miami; one member must be a representative of the College of Medicine of the University of Florida; one member must be a representative of NOVA Southeastern College of Osteopathic Medicine; one member must be a representative of the College of Medicine of the University of South Florida; one member must be a representative of the College of Public Health of the University of South Florida; one member must be a representative of the Florida Society of Clinical Oncology; one member must be a representative of the Florida Obstetric and Gynecologic Society who has had training in the specialty of gynecologic oncology; one member must be a representative of the Florida Ovarian Cancer Alliance Speaks (FOCAS) organization; one member must be a member representative of the Florida Medical Association who specializes in the field of oncology and who represents a cancer center not already represented on the council; one member must be a member of the Florida Pediatric Society; one member must be a representative of the Florida Radiological Society; one member must be a representative of the Florida Society of Pathologists; one member must be a representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.; one member must be a member of the Florida Hospital Association who specializes in the field of oncology and who represents a comprehensive cancer center not already represented on the council; one member must be a representative of the Association of Community Cancer Centers; one member must specialize in pediatric oncology research or clinical care appointed by the Governor; one member must specialize in oncology clinical care or research appointed by the President of the Senate; one member must be a current or former cancer patient or a current or former caregiver to a cancer patient appointed by the Speaker of the House of Representatives three members must be representatives of the general public acting as consumer advocates; one member must be a member of the House of Representatives appointed by the Speaker of the House of Representatives; and one member must be a member of the Senate appointed by the President of the Senate; one member must be a representative of the Florida Dental Association; one member must be a representative of the Florida Hospital Association; one member must be a representative of the Association of Community Cancer Centers; one~~

~~member shall be a representative from a statutory teaching hospital affiliated with a community-based cancer center; one member must be a representative of the Florida Association of Pediatric Tumor Programs, Inc.; one member must be a representative of the Cancer Information Service; one member must be a representative of the Florida Agricultural and Mechanical University Institute of Public Health; and one member must be a representative of the Florida Society of Oncology Social Workers. Of the members of the council appointed by the Governor, At least four of the members ~~10~~ must be individuals who are minority persons as defined by s. 288.703.~~

(b) The terms of the members shall be 4 years from their respective dates of appointment with the option of renewal.

(c) A chairperson shall be selected by the council ~~appointed by the Governor~~ for a term of 2 years. The chairperson shall appoint an executive committee of no fewer than three persons to serve at the pleasure of the chairperson. This committee will prepare material for the council but make no final decisions.

(d) The council shall meet no less than semiannually at the call of the chairperson or, in his or her absence or incapacity, at the call of the State Surgeon General. Eight ~~Sixteen~~ members constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present is sufficient for all actions of the council.

(e) The council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members may be entitled to be reimbursed for ~~per diem and~~ travel expenses by the institution or organization the member represents. If a member is not affiliated with an institution or organization, the member shall be reimbursed for travel expenses by the H. Lee Moffitt Cancer Center and Research Institute, Inc.

~~(f) No member of the council shall participate in any discussion or decision to recommend grants or contracts to any qualified nonprofit association or to any agency of this state or its political subdivisions with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.~~

~~(f)(g)~~ The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.

~~(g)(h)~~ The council shall advise the Board of Governors, the State Surgeon General, and the Legislature with respect to cancer control and research in this state.

~~(h)(i)~~ The council shall approve each year a program for cancer control and research to be known as the “Florida Cancer Control and Research Plan”

which shall be consistent with the State Health Plan and integrated and coordinated with existing programs in this state.

~~(i)~~<sup>(j)</sup> The council shall collaborate with the Florida Biomedical Research Advisory Council to formulate and annually review and recommend to the State Surgeon General a statewide research plan. Additionally, the council shall develop and annually review a statewide “Florida Cancer Treatment Plan” plan for the care and treatment of persons suffering from cancer. The council shall and recommend the establishment of standard requirements for the organization, equipment, and conduct of cancer units or departments in hospitals and clinics in this state. The council may recommend to the State Surgeon General the designation of cancer units following a survey of the needs and facilities for treatment of cancer in the various localities throughout the state. The State Surgeon General shall consider the plans ~~plan~~ in developing departmental priorities and funding priorities and standards under chapter 395.

~~(j)~~<sup>(k)</sup> The council is responsible for including in the Florida Cancer Control and Research Plan recommendations for the coordination and integration of medical, nursing, paramedical, lay, and other plans concerned with cancer control and research. Committees shall be formed by the council so that the following areas will be established as entities for actions:

1. Cancer plan evaluation: tumor registry, data retrieval systems, and epidemiology of cancer in the state and its relation to other areas.
2. Cancer prevention.
3. Cancer detection.
4. Cancer patient management: treatment, rehabilitation, terminal care, and other patient-oriented activities.
5. Cancer education: lay and professional.
6. Unproven methods of cancer therapy: quackery and unorthodox therapies.
7. Investigator-initiated project research.

~~(l)~~ ~~In order to implement in whole or in part the Florida Cancer Plan, the council shall recommend to the Board of Governors or the State Surgeon General the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research.~~

~~(m)~~ ~~If funds are specifically appropriated by the Legislature, the council shall develop or purchase standardized written summaries, written in layperson’s terms and in language easily understood by the average adult patient, informing actual and high-risk breast cancer patients, prostate~~

~~can~~er patients, and men who are considering prostate cancer screening of the medically viable treatment alternatives available to them in the effective management of breast cancer and prostate cancer; describing such treatment alternatives; and explaining the relative advantages, disadvantages, and risks associated therewith. The breast cancer summary, upon its completion, shall be printed in the form of a pamphlet or booklet and made continuously available to physicians and surgeons in this state for their use in accordance with s. 458.324 and to osteopathic physicians in this state for their use in accordance with s. 459.0125. The council shall periodically update both summaries to reflect current standards of medical practice in the treatment of breast cancer and prostate cancer. The council shall develop and implement educational programs, including distribution of the summaries developed or purchased under this paragraph, to inform citizen groups, associations, and voluntary organizations about early detection and treatment of breast cancer and prostate cancer.

~~(k)(n)~~ The council shall have the responsibility to advise the Board of Governors and the State Surgeon General on methods of enforcing and implementing laws already enacted and concerned with cancer control, research, and education.

~~(l)(o)~~ The council may recommend to the Board of Governors or the State Surgeon General rules not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this section.

~~(m)(p)~~ The council shall formulate and put into effect a continuing educational program for the prevention of cancer and its early diagnosis and disseminate to hospitals, cancer patients, and the public information concerning the proper treatment of cancer.

~~(n)(q)~~ The council shall be physically located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., at the University of South Florida.

~~(o)(r)~~ The council shall select, by majority vote, seven members of the council who must combine with six members of the Biomedical Research Advisory Council to form a joint committee to develop performance measures, a rating system, a rating standard, and an application form for the Cancer Center of Excellence Award created in s. 381.925.

~~(p)(s)~~ On February 15 of each year, the council shall report to the Governor and to the Legislature.

~~(5) RESPONSIBILITIES OF THE BOARD OF GOVERNORS, THE H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., AND THE STATE SURGEON GENERAL.—~~

~~(a) The Board of Governors or the State Surgeon General, after consultation with the council, shall award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish,~~

or conduct programs in cancer control and prevention, cancer education and training, and cancer research.

(b) The H. Lee Moffitt Cancer Center and Research Institute, Inc., shall provide such staff, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council.

~~(c) The department may furnish to citizens of this state who are afflicted with cancer financial aid to the extent of the appropriation provided for that purpose in a manner which in its opinion will afford the greatest benefit to those afflicted and may make arrangements with hospitals, laboratories, or clinics to afford proper care and treatment for cancer patients in this state.~~

~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.—~~

~~(a) There is created the Florida Cancer Control and Research Fund consisting of funds appropriated therefor from the General Revenue Fund and any gifts, grants, or funds received from other sources.~~

~~(b) The fund shall be used exclusively for grants and contracts to qualified nonprofit associations or governmental agencies for the purpose of cancer control and prevention, cancer education and training, cancer research, and all expenses incurred in connection with the administration of this section and the programs funded through the grants and contracts authorized by the State Board of Education or the State Surgeon General.~~

Section 2. Subsections (1) and (2) of section 458.324, Florida Statutes, are amended to read:

458.324 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term “medically viable,” as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards, ~~including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m).~~

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) Each physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer shall inform such patient of the medically viable treatment alternatives available to such patient; shall describe such treatment alternatives; and shall explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection,:

(a) the physician may, in his or her discretion,:

1. orally communicate such information directly to the patient or the patient’s legal representative;

~~2. Provide the patient or the patient’s legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express a willingness to discuss the summary with the patient or the patient’s legal representative; or~~

~~3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient’s legal representative for further consideration and possible later discussion.~~

(b) In providing such information, the physician shall take into consideration the emotional state of the patient, the physical state of the patient, and the patient’s ability to understand the information.

(c) The physician may, in his or her discretion and without restriction, recommend any mode of treatment which is in his or her judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 3. Subsections (1) and (2) of section 459.0125, Florida Statutes, are amended to read:

459.0125 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term “medically viable,” as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards, ~~including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m).~~

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) It is the obligation of every physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer to inform such patient of the medically viable treatment alternatives available to such patient; to describe such treatment alternatives; and to explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection,:

(a) the physician may, in her or his discretion,:

1. orally communicate such information directly to the patient or the patient’s legal representative;

~~2.— Provide the patient or the patient’s legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express her or his willingness to discuss the summary with the patient or the patient’s legal representative; or~~

~~3.— Both communicate such information directly and provide a copy of the written summary to the patient or the patient’s legal representative for further consideration and possible later discussion.~~

(b) In providing such information, the physician shall take into consideration the emotional state of the patient, the physical state of the patient, and the patient’s ability to understand the information.

(c) The physician may, in her or his discretion and without restriction, recommend any mode of treatment which is in the physician’s judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 4. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.