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CS/CS/HB 511

2014 Legislature

1
2 An act relating to cancer control and research;
3 amending s. 1004.435, F.S.; revising definitions;
4 revising the membership of the Florida Cancer Control
5 and Research Advisory Council and selection of the
6 council chairperson; authorizing renewal of member
7 terms; revising compensation of council members;
8 renaming the Florida Cancer Plan; requiring the
9 council to collaborate with the Florida Biomedical
10 Research Advisory Council to formulate and review a
11 statewide research plan; requiring the council to
12 develop and review a statewide treatment plan;
13 deleting council, Board of Governors, and State
14 Surgeon General duties relating to the awarding of
15 grants and contracts for cancer-related programs;
16 deleting council duties relating to the development of
17 written summaries of treatment alternatives; deleting
18 financial aid provisions and the Florida Cancer
19 Control and Research Fund; amending ss. 458.324, and
20 459.0125, F.S.; conforming provisions; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraphs (d) and (e) of subsection (3) and
26 subsections (4), (5), and (6) of section 1004.435, Florida

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27 Statutes, are amended to read:

28 1004.435 Cancer control and research.—

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

32 ~~(d) "Fund" means the Florida Cancer Control and Research~~
33 ~~Fund established by this section.~~

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

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

39 (a) There is created within the H. Lee Moffitt Cancer
40 Center and Research Institute, Inc., the Florida Cancer Control
41 and Research Advisory Council. The council shall consist of 15
42 ~~35~~ members, which includes the chairperson, all of whom must be
43 residents of this state. The State Surgeon General or his or her
44 designee within the Department of Health shall be one of the 15
45 members. All Members, except those appointed by the Governor,
46 the Speaker of the House of Representatives, or ~~and~~ the
47 President of the Senate, must be appointed by the chief
48 executive officer of the institution or organization
49 represented, or his or her designee ~~Governor. At least one of~~
50 ~~the members appointed by the Governor must be 60 years of age or~~
51 ~~older.~~ One member must be a representative of the American
52 Cancer Society; ~~one member must be a representative of the~~

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53 ~~Florida Tumor Registrars Association;~~ one member must be a
 54 representative of the Sylvester Comprehensive Cancer Center of
 55 the University of Miami; ~~one member must be a representative of~~
 56 ~~the Department of Health;~~ one member must be a representative of
 57 the University of Florida Shands Cancer Center; ~~one member must~~
 58 ~~be a representative of the Agency for Health Care~~
 59 ~~Administration;~~ one member must be a representative of the
 60 Florida Nurses Association who specializes in the field of
 61 oncology and is not from an institution or organization already
 62 represented on the council; one member must be a representative
 63 of the Florida Osteopathic Medical Association who specializes
 64 in the field of oncology; ~~one member must be a representative of~~
 65 ~~the American College of Surgeons;~~ one member must be a
 66 representative of the School of Medicine of the University of
 67 Miami; one member must be a representative of the College of
 68 Medicine of the University of Florida; one member must be a
 69 representative of NOVA Southeastern College of Osteopathic
 70 Medicine; one member must be a representative of the College of
 71 Medicine of the University of South Florida; one member must be
 72 a representative of the College of Public Health of the
 73 University of South Florida; one member must be a representative
 74 of the Florida Society of Clinical Oncology; one member must be
 75 a representative of the Florida Obstetric and Gynecologic
 76 Society who has had training in the specialty of gynecologic
 77 oncology; one member must be a representative of the Florida
 78 Ovarian Cancer Alliance Speaks (FOCAS) organization; one member

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79 must be a member ~~representative~~ of the Florida Medical
 80 Association who specializes in the field of oncology and who
 81 represents a cancer center not already represented on the
 82 council; ~~one member must be a member of the Florida Pediatric~~
 83 ~~Society; one member must be a representative of the Florida~~
 84 ~~Radiological Society; one member must be a representative of the~~
 85 ~~Florida Society of Pathologists; one member must be a~~
 86 representative of the H. Lee Moffitt Cancer Center and Research
 87 Institute, Inc.; one member must be a member of the Florida
 88 Hospital Association who specializes in the field of oncology
 89 and who represents a comprehensive cancer center not already
 90 represented on the council; one member must be a representative
 91 of the Association of Community Cancer Centers; one member must
 92 specialize in pediatric oncology research or clinical care
 93 appointed by the Governor; one member must specialize in
 94 oncology clinical care or research appointed by the President of
 95 the Senate; one member must be a current or former cancer
 96 patient or a current or former caregiver to a cancer patient
 97 appointed by the Speaker of the House of Representatives ~~three~~
 98 ~~members must be representatives of the general public acting as~~
 99 ~~consumer advocates~~; one member must be a member of the House of
 100 Representatives appointed by the Speaker of the House of
 101 Representatives; and one member must be a member of the Senate
 102 appointed by the President of the Senate; ~~one member must be a~~
 103 ~~representative of the Florida Dental Association; one member~~
 104 ~~must be a representative of the Florida Hospital Association;~~

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105 ~~one member must be a representative of the Association of~~
 106 ~~Community Cancer Centers; one member shall be a representative~~
 107 ~~from a statutory teaching hospital affiliated with a community-~~
 108 ~~based cancer center; one member must be a representative of the~~
 109 ~~Florida Association of Pediatric Tumor Programs, Inc.; one~~
 110 ~~member must be a representative of the Cancer Information~~
 111 ~~Service; one member must be a representative of the Florida~~
 112 ~~Agricultural and Mechanical University Institute of Public~~
 113 ~~Health; and one member must be a representative of the Florida~~
 114 ~~Society of Oncology Social Workers. Of the members of the~~
 115 ~~council appointed by the Governor,~~ At least four of the members
 116 ~~10~~ must be individuals who are minority persons as defined by s.
 117 288.703.

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

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

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

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131 majority of the members present is sufficient for all actions of
 132 the council.

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

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

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

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

153 (h) ~~(i)~~ The council shall approve each year a program for
 154 cancer control and research to be known as the "Florida Cancer
 155 Control and Research Plan" which shall be consistent with the
 156 State Health Plan and integrated and coordinated with existing

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157 programs in this state.

158 (i)~~(j)~~ The council shall collaborate with the Florida
 159 Biomedical Research Advisory Council to formulate and annually
 160 review and recommend to the State Surgeon General a statewide
 161 research plan. Additionally, the council shall develop and
 162 annually review a statewide "Florida Cancer Treatment Plan" ~~plan~~
 163 for the care and treatment of persons suffering from cancer. The
 164 council shall ~~and~~ recommend the establishment of standard
 165 requirements for the organization, equipment, and conduct of
 166 cancer units or departments in hospitals and clinics in this
 167 state. The council may recommend to the State Surgeon General
 168 the designation of cancer units following a survey of the needs
 169 and facilities for treatment of cancer in the various localities
 170 throughout the state. The State Surgeon General shall consider
 171 the plans ~~plan~~ in developing departmental priorities and funding
 172 priorities and standards under chapter 395.

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

179 1. Cancer plan evaluation: tumor registry, data retrieval
 180 systems, and epidemiology of cancer in the state and its
 181 relation to other areas.

182 2. Cancer prevention.

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- 183 3. Cancer detection.
- 184 4. Cancer patient management: treatment, rehabilitation,
185 terminal care, and other patient-oriented activities.
- 186 5. Cancer education: lay and professional.
- 187 6. Unproven methods of cancer therapy: quackery and
188 unorthodox therapies.
- 189 7. Investigator-initiated project research.
- 190 ~~(l) In order to implement in whole or in part the Florida~~
191 ~~Cancer Plan, the council shall recommend to the Board of~~
192 ~~Governors or the State Surgeon General the awarding of grants~~
193 ~~and contracts to qualified profit or nonprofit associations or~~
194 ~~governmental agencies in order to plan, establish, or conduct~~
195 ~~programs in cancer control or prevention, cancer education and~~
196 ~~training, and cancer research.~~
- 197 ~~(m) If funds are specifically appropriated by the~~
198 ~~Legislature, the council shall develop or purchase standardized~~
199 ~~written summaries, written in layperson's terms and in language~~
200 ~~easily understood by the average adult patient, informing actual~~
201 ~~and high-risk breast cancer patients, prostate cancer patients,~~
202 ~~and men who are considering prostate cancer screening of the~~
203 ~~medically viable treatment alternatives available to them in the~~
204 ~~effective management of breast cancer and prostate cancer;~~
205 ~~describing such treatment alternatives; and explaining the~~
206 ~~relative advantages, disadvantages, and risks associated~~
207 ~~therewith. The breast cancer summary, upon its completion, shall~~
208 ~~be printed in the form of a pamphlet or booklet and made~~

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209 ~~continuously available to physicians and surgeons in this state~~
 210 ~~for their use in accordance with s. 458.324 and to osteopathic~~
 211 ~~physicians in this state for their use in accordance with s.~~
 212 ~~459.0125. The council shall periodically update both summaries~~
 213 ~~to reflect current standards of medical practice in the~~
 214 ~~treatment of breast cancer and prostate cancer. The council~~
 215 ~~shall develop and implement educational programs, including~~
 216 ~~distribution of the summaries developed or purchased under this~~
 217 ~~paragraph, to inform citizen groups, associations, and voluntary~~
 218 ~~organizations about early detection and treatment of breast~~
 219 ~~cancer and prostate cancer.~~

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

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

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

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

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235 University of South Florida.

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

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

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

247 ~~(a) The Board of Governors or the State Surgeon General,~~
 248 ~~after consultation with the council, shall award grants and~~
 249 ~~contracts to qualified nonprofit associations and governmental~~
 250 ~~agencies in order to plan, establish, or conduct programs in~~
 251 ~~cancer control and prevention, cancer education and training,~~
 252 ~~and cancer research.~~

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

257 ~~(c) The department may furnish to citizens of this state~~
 258 ~~who are afflicted with cancer financial aid to the extent of the~~
 259 ~~appropriation provided for that purpose in a manner which in its~~
 260 ~~opinion will afford the greatest benefit to those afflicted and~~

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261 ~~may make arrangements with hospitals, laboratories, or clinics~~
 262 ~~to afford proper care and treatment for cancer patients in this~~
 263 ~~state.~~

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

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

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

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

279 458.324 Breast cancer; information on treatment
 280 alternatives.—

281 (1) DEFINITION.—As used in this section, the term
 282 "medically viable," as applied to treatment alternatives, means
 283 modes of treatment generally considered by the medical
 284 profession to be within the scope of current, acceptable
 285 standards, ~~including treatment alternatives described in the~~
 286 ~~written summary prepared by the Florida Cancer Control and~~

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287 ~~Research Advisory Council in accordance with s. 1004.435(4)(m).~~
 288 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—
 289 (a) Each physician treating a patient who is, or in the
 290 judgment of the physician is at high risk of being, diagnosed as
 291 having breast cancer shall inform such patient of the medically
 292 viable treatment alternatives available to such patient; shall
 293 describe such treatment alternatives; and shall explain the
 294 relative advantages, disadvantages, and risks associated with
 295 the treatment alternatives to the extent deemed necessary to
 296 allow the patient to make a prudent decision regarding such
 297 treatment options. In compliance with this subsection, ÷
 298 ~~(a)~~ the physician may, in his or her discretion, ÷
 299 ~~1.~~ orally communicate such information directly to the
 300 patient or the patient's legal representative; ~~÷~~
 301 ~~2.~~ Provide the patient or the patient's legal
 302 representative with a copy of the written summary prepared in
 303 accordance with s. 1004.435(4)(m) and express a willingness to
 304 discuss the summary with the patient or the patient's legal
 305 representative; ~~or~~
 306 ~~3.~~ Both communicate such information directly and provide
 307 a copy of the written summary to the patient or the patient's
 308 legal representative for further consideration and possible
 309 later discussion.
 310 (b) In providing such information, the physician shall
 311 take into consideration the emotional state of the patient, the
 312 physical state of the patient, and the patient's ability to

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313 understand the information.

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

317
 318 Nothing in this subsection shall reduce other provisions of law
 319 regarding informed consent.

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

322 459.0125 Breast cancer; information on treatment
 323 alternatives.—

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

331 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

332 (a) It is the obligation of every physician treating a
 333 patient who is, or in the judgment of the physician is at high
 334 risk of being, diagnosed as having breast cancer to inform such
 335 patient of the medically viable treatment alternatives available
 336 to such patient; to describe such treatment alternatives; and to
 337 explain the relative advantages, disadvantages, and risks
 338 associated with the treatment alternatives to the extent deemed

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339 necessary to allow the patient to make a prudent decision
 340 regarding such treatment options. In compliance with this
 341 subsection, ÷
 342 ~~(a)~~ the physician may, in her or his discretion, ÷
 343 ~~1.~~ orally communicate such information directly to the
 344 patient or the patient's legal representative; ~~÷~~
 345 ~~2. Provide the patient or the patient's legal~~
 346 ~~representative with a copy of the written summary prepared in~~
 347 ~~accordance with s. 1004.435(4) (m) and express her or his~~
 348 ~~willingness to discuss the summary with the patient or the~~
 349 ~~patient's legal representative; or~~
 350 ~~3. Both communicate such information directly and provide~~
 351 ~~a copy of the written summary to the patient or the patient's~~
 352 ~~legal representative for further consideration and possible~~
 353 ~~later discussion.~~
 354 (b) In providing such information, the physician shall
 355 take into consideration the emotional state of the patient, the
 356 physical state of the patient, and the patient's ability to
 357 understand the information.
 358 (c) The physician may, in her or his discretion and
 359 without restriction, recommend any mode of treatment which is in
 360 the physician's judgment the best treatment for the patient.
 361
 362 Nothing in this subsection shall reduce other provisions of law
 363 regarding informed consent.
 364 Section 4. This act shall take effect July 1, 2014.