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Interim Project Report 2006-223

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Committee on Health Care

Senator Durell Peaden, Jr., Chair

PHARMACY LICENSURE BY ENDORSEMENT REQUIREMENTS, S. 465.0075, F.S.

SUMMARY

The Legislature enacted pharmacy licensure by endorsement requirements in ch. 2001-166, L.O.F., which is currently codified in s. 465.0075, F.S. Section 465.0075, F.S., provides licensure by endorsement requirements for a pharmacist who is licensed in another jurisdiction and who has met certain other requirements to practice pharmacy in Florida. Section 2 of ch. 2001-166, Laws of Florida, requires the appropriate committee of each house of the Legislature to review, during the 2006 Regular Session of the Legislature, the effect of this act and make recommendations to the presiding officer of that house regarding such review.

Section 465.0075, F.S., was not subject to repeal by law and therefore does not require reenactment by the Legislature. Based on the findings contained in this report, the staff recommends that the pharmacy licensure by endorsement requirements contained in s. 465.0075, F.S., be amended to require applicants to obtain the required 30 hours of continuing education within the *24 months*, rather than *2 calendar years*, immediately preceding their application.

proprietary preparations)¹, any person who practices pharmacy in Florida must be a licensed pharmacist or registered as a pharmacy intern. A pharmacy intern is a person who is currently registered in, and attending, an accredited school or college of pharmacy, or who is a graduate of a school or college of pharmacy, and who is registered with DOH.²

A person wishing to practice pharmacy as a pharmacist may become licensed to practice that profession by applying under licensure by examination or licensure by endorsement statutory provisions. Licensure by examination is a licensure option that requires an applicant to sit for the licensure examination for entry into the profession at the time of application, in addition to meeting other licensure requirements. Under licensure by examination requirements, the Florida Board of Pharmacy assures that the applicant scheduled to sit for the licensure examination is qualified to do so.³

A pharmacist who is already licensed and practicing pharmacy in another state may not wish to sit for the licensure examination as an initial applicant to practice in Florida if the pharmacist has already met substantially equivalent requirements for licensure at the time he or she was originally licensed to practice the profession. Licensure by endorsement is a licensing procedure that allows an out-of-state practitioner who holds an active license in a state which has licensing requirements substantially equivalent to, or more stringent than, those in the state in which the practitioner is seeking licensure to obtain a license without meeting all of the licensure requirements for a person who is obtaining licensure for the first time.

BACKGROUND

Regulation of the Practice of Pharmacy

The practice of pharmacy in the State of Florida is regulated by the Board of Pharmacy within the Department of Health (DOH). The statutory provisions for the regulation of the practice of pharmacy are found in the "Florida Pharmacy Act," ch. 465, F.S.

Although the Florida Pharmacy Act specifies exceptions to pharmacy licensure in Florida for the sale of home remedies or preparations (patents or

Licensure by Examination

¹ See s. 465.027, F.S.

² See s. 465.003(12), F.S.

³ See s. 465.007, F.S.

Section 465.007, F.S., provides requirements for licensure by examination for persons who wish to practice pharmacy in Florida. Applicants must complete the application form and submit to DOH an examination fee no greater than \$100 plus the actual cost to the department for purchase of portions of the examination from the National Association of Boards of Pharmacy® (NABP®)⁴ or a similar national organization.

Pursuant to s. 465.007(1)(b) and (c), F.S., DOH will examine any applicant wishing to practice pharmacy who the Florida Board of Pharmacy certifies: is 18 years of age or older; has received a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education *or* has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States and has also demonstrated proficiency in English by passing both the Test of English as a Foreign Language and the Test of Spoken English; and has completed an internship program approved by the board. In addition, a graduate of a foreign school or college of pharmacy must have completed a minimum of 500 hours of supervised work in Florida under a licensed pharmacist and have passed the board-approved Foreign Pharmacy Graduate Equivalency Examination. After the Florida Board of Pharmacy has certified that the applicant has successfully met the requirements in s. 465.007(1)(b) and (c), F.S., DOH must issue a license to practice pharmacy to any applicant who successfully completes the examination. The pharmacy licensure examination also tests applicants' knowledge of Florida law relating to the practice of pharmacy.⁵

Pharmacy Licensure by Endorsement

In 1986, Senate committee staff recommended, as part of its comprehensive review of the pharmacy practice act pursuant to the Sunset Act, that the pharmacy practice act could be amended to provide for licensure by endorsement of any out-of-state pharmacist who holds an active license in a state which has licensing requirements substantially equivalent to or more stringent than those of Florida and who has passed the

Florida laws and rules portion of the Florida pharmacy examination. The committee staff concluded that the absence of a provision for licensure by endorsement appears to have the primary effect of benefiting the regulated profession.⁶

More than a decade later, the Florida Legislature considered legislation to create requirements for pharmacy licensure by endorsement.⁷ The legislation providing a mechanism for out-of-state pharmacists to become licensed to practice in Florida through endorsement had been controversial for several years.⁸ The passage of ch. 2001-166, L.O.F., created the initial pharmacy licensure by endorsement provisions. Before ch. 2001-166, L.O.F. became effective, there was no mechanism for out-of-state pharmacists to become licensed in Florida without meeting all of the initial licensure requirements, including sitting for a national licensure examination. Today, each of the 50 states in the United States allows a pharmacist to practice in their state through licensure by endorsement without first meeting initial licensure by examination requirements.

Section 2 of ch. 2001-166, Laws of Florida, requires the appropriate committee of each house of the Legislature to review, during the 2006 Regular Session of the Legislature, the effect of this act and make recommendations to the presiding officer of that house regarding such review.

Under s. 465.0075, F.S., DOH must issue a license to practice pharmacy by endorsement, to any applicant who has submitted a non-refundable application fee no greater than \$100, and who the Board of Pharmacy certifies has met the following requirements:

- Has met the qualifications for licensure in s. 465.007(1)(b) and (c), F.S., which include:
 - Has attained 18 years of age; and
 - Has received a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education *or* has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has

⁴ The NABP® is a professional association that represents the state boards of pharmacy in all 50 states of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, New Zealand, eight Canadian Provinces, two Australian states, and South Africa.

⁵ See Rule 64B16-26.200, Florida Administrative Code.

⁶ See "A Review of Chapter 465, Florida Statutes Relating to Pharmacy, Staff of the Senate Economic, Community, and Consumer Affairs Committee, January, 1986.

⁷ See Senate Bill 1036 (1999) and Senate Bill 168 (2000).

⁸ *Id.*

demonstrated proficiency in English by passing both the Test of English as a Foreign Language and the Test of Spoken English, has passed the Foreign Pharmacy Graduate Equivalency Examination that is approved by rule of the board, and has completed a minimum of 500 hours in a board-approved supervised work activity program within this state under the supervision of a Florida-licensed pharmacist; and

- Has completed an internship program approved by the board.
- Has obtained a passing score on the licensure examination of the NABP® (North American Pharmacy Licensure Examination – NAPLEX)⁹ or a similar national organization not more than 12 years prior to applying for a license by endorsement in Florida;
- Has actively practiced as a pharmacist in another jurisdiction for at least 2 of the preceding 5 years before application to practice in Florida, or has successfully completed a board-approved postgraduate training or board-approved clinical competency examination within the year before application, or has completed an internship meeting existing statutory internship requirements within the 2 years immediately preceding application; and
- Has obtained a passing score on the pharmacy jurisprudence portions of the licensure examination.

An applicant licensed in another state for a period in excess of 2 years from the date of application for licensure must document completion of 30 hours of board-approved continuing education in the 2 calendar years preceding application.

The Department of Health may not issue a license to any applicant:

- Who is being investigated for acts that would violate regulations applicable to Florida-licensed pharmacists until the investigation is complete, or
- Whose license has been suspended or revoked in another state or whose license to practice pharmacy is currently the subject of any disciplinary proceeding.

METHODOLOGY

Staff reviewed the law, applicable administrative rules, and licensing procedures used by DOH. Staff examined the extent to which s. 465.0075, F.S., has been used by pharmacists and obtained input from DOH, the Board of Pharmacy, and interested stakeholders to determine whether s. 465.0075, F.S., should be maintained, modified, or repealed.

FINDINGS

Supply and Demand for Pharmacists

The adequacy of the supply of pharmacists in the United States has been a concern for several years. Several studies have addressed pharmacy workforce issues, but they have been constrained by the scarcity of basic data regarding the size and characteristics of the pharmacy workforce.¹⁰ Pharmacists represent the third largest health professional group in the United States, but there is no comprehensive database to account for pharmacy education capacity, enrollment trends in pharmacy schools, transition to the Doctor of Pharmacy as a entry-level professional degree, and changes in the composition of the pharmacist workforce resulting from increases in the number of women in the field.¹¹ The pharmacy profession has relied upon modeling to forecast estimates of the national pharmacy workforce. The United States Bureau of Health Professions (BHPr) has developed supply models to forecast the number of pharmacists in United States.¹²

In December 1999, in response to a concern regarding a possible shortage of licensed pharmacists in the United States, Congress directed the Secretary of the

⁹ The NAPLEX is a competency examination that has been developed by NABP® to accurately reflect contemporary pharmacy practice in the United States and Canada. The NAPLEX is used by boards of pharmacy as a tool to assess the competence of an applicant to practice pharmacy. The NAPLEX is a computer-adaptive test that measures a candidate's knowledge and abilities through a series of multiple-choice test questions. To pass the NAPLEX, a candidate must meet or exceed a minimum level of competence to practice pharmacy.

¹⁰ See Gershon, S; Cultice, J; and Knapp, K. (2000) How Many Pharmacists Are In Our Future? The Bureau of Health Professions Projects Supply to 2020.

¹¹ Id.

¹² The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists, U.S. Dept. of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions (December 2000).

U.S. Department of Health and Human Services to conduct a study to determine whether and to what extent there was a shortage of licensed pharmacists and to seek input from the appropriate entities regarding any such shortage. The BHPPr launched a study of the pharmacy workforce as part of that requirement. According to BHPPr, in 2000 there were approximately 196,000 active pharmacists in the United States. BHPPr projects that in the year 2010 there will be 224,524 active pharmacists or about 74.9 pharmacists per 100,000 residents in the United States.¹³ Table 1 below outlines data about the losses from the pharmacy workforce over the period 1995 projected through 2010. The losses within the profession are predominately among male pharmacists. Under the BHPPr model, the entry of new graduates and the licensure of foreign-trained pharmacy graduates is projected to exceed losses due to death and retirement and will result in a net increase in the number of active pharmacists.¹⁴

| Year | Loss of Men | Loss of Women | Total Losses | Percent of Total Workforce |
|------|-------------|---------------|--------------|----------------------------|
| 1995 | 4338 | 902 | 5240 | 2.9 |
| 2000 | 3882 | 1158 | 5040 | 2.6 |
| 2005 | 3711 | 1578 | 5289 | 2.5 |
| 2010 | 3553 | 2203 | 5756 | 2.6 |

Source: The Pharmacist Workforce: A Study of the Supply and Demand for Pharmacists, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions (December 2000).

Under the BHPPr's model, the number of pharmacists is growing at a somewhat faster rate than the U.S. population. However, the demand for pharmacists has grown faster than the population or the supply of pharmacists.¹⁵ The BHPPr study found the:

- Emergence of a shortage of pharmacists;
- Sharp increases in demand for pharmacy services;
- Declines in pharmacy school applications; and
- Factors causing the shortage were not likely to abate without fundamental changes in pharmacy practice and education.

The BHPPr study found that the demand for pharmacy services is attributed to an increased use of prescription medications, market growth and competition among retail pharmacies, the expansion of pharmacy practice, the increased access to health care and the increased number of health care practitioners who are authorized to prescribe medications, changes in the pharmacy workforce which include a greater number of women pharmacists and their shorter work patterns, and an increased insurance coverage for prescription drugs, which results in both a higher prescription volume and number of third-party payment issues that need resolution by pharmacists.¹⁶

Factors that have influenced the demand for pharmacists and pharmaceutical care services found by the BHPPr study include an increase in the number of retail prescriptions dispensed.¹⁷ The number of retail prescriptions dispensed per year in the United States increased by 44 percent between 1992 and 1999, from 1.9 billion to 2.8 billion prescriptions.¹⁸ Retail pharmacists have had to adjust their work patterns to handle an increased volume of prescriptions and the administrative burdens generated by such volume in handling the third-party payment of the prescriptions. Some health plans require a co-payment for prescription coverage, and other plans may limit coverage to a specified formulary, a list of prescription drugs. The variety of third-party payment requirements for prescriptions adds to the demand for retail pharmacists' time.

Use of Pharmacy Licensure by Endorsement

Jurisdictions that provide licensure by endorsement procedures for persons to practice pharmacy may participate in the NABP®'s electronic licensure transfer program that enables pharmacists to transfer their existing pharmacy license from one jurisdiction to another through uniform licensure requirements recognized in jurisdictions that are members of the NABP®. The NABP® electronic licensure program serves as a clearinghouse that screens pharmacists for disciplinary actions and verifies background information.

The NABP® electronic licensure program reported a record 7,292 pharmacy licensure transfers during

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

2004.¹⁹ The NABP® program tracks pharmacists who have obtained licensure by endorsement into states.²⁰ For the third consecutive year, in 2004, Florida led the states with most pharmacists requesting licensure transfers into the state to practice here.²¹ The NABP® processed 514 licensure transfer requests for Florida in 2004.²² According to officials at NABP®, the large increase in licensure transfer requests was caused by the merger of some of the larger chain pharmacies, the requirement that more states imposed on nonresident pharmacists to be licensed in the states in which medication was shipped, the need or higher demand for pharmacists, and increased recruiting efforts to eliminate the shortage of pharmacists in some areas.²³

The Florida Department of Health indicates that there are approximately 22,425 actively licensed pharmacists in Florida. Since 2001, about 1,034 pharmacists have been licensed in Florida under s. 465.0075, F.S., the licensure by endorsement provisions.²⁴ Of the pharmacy licensure by endorsement applicants, approximately 80 percent met the requirements by providing evidence that the applicant had actively practiced pharmacy in another jurisdiction for at least 2 of the immediately 5 years.²⁵ About 20 percent of the endorsement applicants qualified for licensure by showing proof of having successfully completed an internship within 2 years immediately preceding the application and obtaining a passing score on the pharmacy jurisprudence portions of the licensure examination.²⁶ None of the pharmacists who have been licensed in Florida under the endorsement provisions has been subject to discipline by the Florida Board of Pharmacy.²⁷

Recommended Amendments to S. 465.0075, F.S.

During its August 2005 meeting, the Florida Board of Pharmacy recommended that the pharmacy licensure by endorsement provisions in s. 465.0075, F.S., be amended to require applicants to submit a total of at least 30 hours of board-approved continuing education

for the 24 months immediately preceding application. The existing pharmacy licensure by endorsement provisions require applicants to submit a total of at least 30 hours of board-approved continuing education for the 2 calendar years immediately preceding application. Black's Law Dictionary defines year to mean twelve calendar months beginning January 1 and ending December 31 and the term is also referred to as 'calendar year.'²⁸ The board indicated that continuing education is not completed in calendar year cycles and that the recommended change would provide applicants more flexibility. Under the recommended change, the applicants for pharmacy licensure by endorsement would not be required to obtain the 30 hours of continuing education within the 2 calendar years immediately preceding their application but could obtain the needed hours within a 24-month period preceding their application.

The Florida Board of Pharmacy also recommended two additional changes to the pharmacy licensure by endorsement provisions at its August 2005 meeting.²⁹ The board recommended: the elimination of the requirement for applicants to have taken the NAPLEX or a similar nationally recognized examination within 12 years prior to application; and an increase in the statutory fee cap for the licensure by endorsement application from \$100 to \$300.³⁰ Under the board's recommendation, the licensure by endorsement applicant must have already successfully completed the NAPLEX or similar national examination as a part of his or her initial application in the state where the pharmacist is currently authorized to practice. The out-of-state pharmacist will still have to submit proof to the Florida Board of Pharmacy that the pharmacist had successfully completed the NAPLEX or similar national examination without complying with the restriction that the examination was successfully

¹⁹ See "NABP Sets Record High for Licensure Transfer Requests in 2004," NABP Newsletter March 2005 pp. 52-53.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Source: The Florida Department of Health, Medical Quality Assurance Division, Board of Pharmacy.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ See BLACK'S LAW DICTIONARY, EIGHTH EDITION. See also "calendar year" is defined to mean the one-year period that begins January 1 and ends December 31. In Investopedia.com at: <<http://www.answers.com/calendar+year&r=67>>.

²⁹ See Minutes of the August 16, 2005 Rules Committee Meeting of the Florida Board of Pharmacy and the Minutes to the August 17, 2005 Florida Board of Pharmacy Meeting where the board unanimously approved the changes recommended by the Rules Committee during the August 16 committee meeting. See <http://www.doh.state.fl.us/mqa/pharmacy/ph_minutes.html>.

³⁰ Under Rule 64B16-26.1002, Florida Administrative Code, the initial license fee for a pharmacist is \$190 plus a \$5 unlicensed activity fee pursuant to s. 456.065(3), F.S.

completed not more than 12 years before his or her endorsement application to practice in Florida.

Although eliminating the requirement that applicants must have taken the NAPLEX or a similar examination within 12 years prior to application may increase the number of pharmacists eligible for licensure by endorsement, the current licensure by endorsement requirements have already allowed Florida to gain the largest number of pharmacists already licensed in other states for the last three consecutive years. Table 2 below outlines the pharmacy licensure transfers reported in the NABP Electronic Licensure Transfer Program® for the period 2002 – 2004.

| Table 2 - Pharmacy Licensure Transfers Reported in NABP Electronic Licensure Transfer Program® for Years 2002 - 2004 | | | |
|---|-------------|-------------|-------------|
| Year | 2002 | 2003 | 2004 |
| Into Florida | 444 | 469 | 514 |
| Out of Florida | 132 | 123 | 143 |
| Total Licensure Transfers Into States reported in NABP Program | 6,403 | 6,456 | 7,292 |

Source: NABP Electronic Licensure Transfer Program® and NABP Newsletter March 2005.

In its response to the committee staff questionnaire, DOH supports only the Board of Pharmacy's recommendation that would require pharmacy licensure endorsement applicants to submit a total of at least 30 hours of board-approved continuing education for the *24 months* immediately preceding application.³¹

The Florida Pharmacy Association has also indicated that it does not object to the pharmacy licensure by endorsement provisions currently in s. 465.0075, F.S. The Florida Retail Federation, the National Association of Chain Drug Stores, and various retail pharmacy companies that are members of the federation have indicated that the current provisions for pharmacy licensure by endorsement should be preserved. The associations representing retail chain drug stores in Florida have expressed a concern that they are facing a

severe shortage of pharmacists and that the existing endorsement provisions alleviate the shortage of pharmacists by allowing out-of-state pharmacists to more easily become licensed to practice in Florida. The Florida Pharmacy Association has indicated that they have found, in their review of literature, a lack of consensus on the supply and demand of pharmacists.

RECOMMENDATIONS

Section 465.0075, F.S., provides requirements for pharmacy licensure by endorsement. Section 465.0075, F.S., was not subject to a repeal by law and therefore does not require reenactment by the Legislature. Under the existing pharmacy licensure by endorsement provisions, Florida has gained more pharmacists licensed through endorsement than any other state for each year since 2002. The existing pharmacy licensure by endorsement provisions require applicants to submit a total of at least 30 hours of board-approved continuing education for the 2 calendar years immediately preceding application. Based on the findings contained in this report, the staff recommends that pharmacy licensure by endorsement requirements contained in s. 465.0075, F.S., be amended to allow applicants for pharmacy licensure by endorsement to obtain the 30 hours of continuing education within *24 months* rather than *2 calendar years* immediately preceding their application. The recommended change would give licensure endorsement applicants more flexibility.

³¹ See August 24, 2005 response to Health Care Committee staff questionnaire regarding its review of s. 465.0075, F.S.